



Constitution



The Council's Constitution

The Council has agreed this constitution, which sets out how the Council operates. It also sets out how decisions are made and the procedures which are followed to ensure that the Council is efficient, transparent, and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose.

What's in the constitution?

There are several parts to the constitution:

1 Part 1 - The Constitution

The summary and explanation

2 Part 2 - The Articles of the Constitution

The 15 Articles of the Constitution, which set out the basic rules governing the Council's business. The articles refer to more detailed procedures and codes of practice which are set out in separate rules and protocols contained in other parts of the constitution. Copies of the job descriptions for the Corporate Management Team (CMT) are appended.

3 Part 3 - Responsibility for Functions

A schedule of Responsible for Functions, which shows who or which body takes decisions. The *Scheme of Delegation to Officers* is appended.

4 Part 4 - Rules of Procedure

The detailed Rules of Procedure, which the Council follows.

5 Part 5 - Codes and Protocols

The Codes of Practice and Protocols, which the Council has adopted.

6 Part 6 - Members' Allowance Scheme

The scheme for the payment of allowances to the members of the Council.

7 Part 7 - Management Structure

A chart of the Management Structure, which shows how the officers of the Borough Council are organised.

8 Part 8 - Councillors' Contact Details

Details for Members of the Councils can be found at the following link; [Your Councillors | Boston Borough Council](#)

9 Part 9 - Membership of Committees

Document showing the membership of the Council's Committees and their political balance where appropriate.

10 Part 10 - Programme of Meetings

The programme of meetings for 2025/26.

This page is intentionally left blank

PART 1

CONSTITUTION

The Constitution

Part 1 - Summary

1. What is the purpose of the Constitution?

- 1.1 This Constitution provides a single point of reference as to how Boston Borough Council operates.
- 1.2 Boston Borough Council is a local authority established under the Local Government Acts 1972 and 1992. The contents of this Constitution therefore derive from:
 - (i) Statute - Acts of Parliament and Regulations
 - (ii) Decisions of the Council
 - (iii) Decisions of the authority's Cabinet
- 1.3 The Constitution is divided into 10 parts which set out the basic Rules governing the Council's business.

2. How the Council Operates

- 2.1 The Council is composed of 30 Councillors. Each Councillor is elected to represent an area in the district (called a ward) for a period of 4 years. Some wards have more than one Councillor to represent them. Borough Council elections are usually held every four years.
- 2.2 Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.3 The Council has adopted a Code of Conduct for Members, and all Councillors have to agree to comply with this Code to ensure high standards in the way they undertake their duties. The Monitoring Officer is responsible for overseeing training and advising Members on the Code of Conduct and for dealing with complaints of breach of the Code whilst the Audit and Governance Committee has a role in overseeing the arrangements.
- 2.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public unless they are discussing matters which are confidential or contain exempt information. Here Councillors decide the Council's

overall policies and set the Budget each year. The Council appoints the Leader who in turn appoints Members of the Cabinet.

3. How decisions are made

- 3.1 The Council is responsible for setting the authority's Budget and principal policies, for regulatory functions and for appointing Statutory Officers. The Council also elects a Councillor to be the Executive Leader ("the Leader") who then appoints a number of other Councillors to make up the Executive ("the Cabinet").
- 3.2 The Leader / Cabinet are responsible for most day-to-day decisions. All major ("Key") decisions to be made by the Cabinet or by Members of the Cabinet will be published in advance in the Cabinet's Forward Plan in so far as they can be anticipated. Decision making meetings of the Cabinet will generally be open for the public to attend except where confidential or exempt matters are being discussed.
- 3.3 The Leader / Cabinet must make decisions in line with the Council's overall policies and Budget. If the Cabinet wishes to make a decision which is not in line with the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

4. Executive Arrangements

- 4.1 The Executive, which is called the Cabinet in Boston Borough Council, is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and Councillors whom the Leader appoints. When major decisions (known as 'Key Decisions' which are defined in Article 1 of the Constitution) are to be discussed or made, these are published in the Executive / Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt/personal or confidential matters are being discussed.
- 4.2 The Council's executive arrangements are described in Part 3 of the Constitution.

5. Overview and Scrutiny

- 5.1 The Council appoints an Overview and Scrutiny Committee, which has three roles, and the functions of this committee are contained in Part 3.

- 5.2 The first role of the Overview and Scrutiny Committee is to support the work of the Cabinet and the Council as a whole by considering and making recommendations on policy.
- 5.3 Secondly, the Overview and Scrutiny Committee is the main body scrutinising decisions made by the Cabinet and holding it to account. It has the power to consider decisions made by the Cabinet but not yet implemented and can ask the Cabinet to reconsider those decisions or, if it considers that a decision may be contrary to the Policy Framework and/or contrary to or not wholly in accordance with the Budgetary Framework, it may refer the matter on to full Council.
- 5.4 Finally, it is also responsible for reviewing matters relating to a wide range of partner organisations, including those relating to health, to education and to law and order, to ensure that the public authorities that operate in the Borough of Boston are acting in an effective and co-ordinated manner, in the public interest.

6. Regulatory Committees

- 6.1 Decisions about applications for planning permission or licenses are not the responsibility of the Cabinet. There are two Regulatory Committees:
- Planning Committee
 - Licensing/Regulatory and Appeals Committee
- 6.2 The functions of these committees are contained in Part 3.

7. Audit and Governance Committee

- 7.1 The membership of the Audit and Governance Committee is based on political balance with 9 Elected Members who undergo training and development to help deliver the responsibilities for those charged with governance and 1 Non-Elected representative with specific skills as defined by a competency framework.

8. The Council's Staff

- 8.1 The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. The officer scheme of delegation is contained in Part 3. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between Officers and Members of the Council. The Protocol for Member / Officer Relations is contained in Part 5.

9. Resident's Rights

- 9.1 For the purposes of this Constitution, the term residents includes (where appropriate) those people who live, study, work or have businesses in the borough or who receive services for which the Council is responsible.
- 9.2 Boston's residents have a number of rights in their dealings with the authority. These are set out in more detail in Article 3, later in this chapter. Some of these are legal rights, whilst others depend on the authority's own processes.
- 9.3 The authority welcomes participation by residents in its work. The Constitution sets out the public's rights of access to the Council's agendas, to reports that are to be considered at meetings and to background papers relating to those reports. The Access to Information Procedure Rules governing these are contained in Part 4.
- 9.4 Residents also have separate rights of access to documents held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 9.5 Residents have the right to:
- vote at local elections if they are registered
 - contact their local Councillor about any matters of concern to them
 - Inspect and obtain a copy of the Constitution
 - attend meetings of the Council and its Committees except where, for example, personal / exempt or confidential matters are being discussed
 - petition to request a referendum on a mayoral form of executive
 - participate in the Council's question time, speak on planning applications, present petitions and contribute to investigations by the Overview and Scrutiny Committees
 - find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet Members or Officers, and when
 - attend meetings of the Cabinet where key decisions are being discussed or decided;

- complain to the Boston Borough Council about its services and receive a timely response
- complain to the Ombudsman if they think that Boston Borough Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct
- inspect the Council's accounts and make their views known to the external auditor, and
- make their views known to the Council on any matter

9.6 Residents' rights to present petitions to the Council, to ask questions at meetings of the Council, to speak on planning applications and to be involved in the Scrutiny process, are set out in more detail in Article 3, later in this chapter.

Part 2 - The Articles of the Constitution

Article 1 - The Constitution

1. Powers of the Authority

- 1.1 The Authority will exercise all its powers and duties in accordance with the law and this Constitution.

2. The Constitution

- 2.1 This Constitution, and all its appendices, is the Constitution of Boston Borough Council.

3. Purpose of the Constitution

- 3.1 The Constitution is based on the following principles:

Principle	What it means in this Constitution
Enhancing service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Accountability	Ensuring mechanisms for those responsible for decisions to be held to account for them
Transparency	Having streamlined and simplified clear decision-making and accountabilities
Community representation	Enabling Councillors to represent local communities effectively
Increasing community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Committee, Officers and Members and better corporate working on cross cutting issues

- 3.2 It provides a single point of reference for the operating Rules of the authority.

4. Monitor and review of the Constitution

- 4.1 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

5. Amendment of the Constitution

- 5.1 Subject to Article 15, the Constitution may only be amended by a resolution of the Council.

6. Interpretation of the Constitution

- 6.1 In this Constitution, the following words and phrases have the following meanings, unless the context dictates otherwise:

“The Authority”	means the legal entity of Boston Borough Council
“The Cabinet”	means the Leader and Cabinet Members meeting as a body
“Cabinet Member”	means the Leader or another Councillor appointed by the Leader to be a Cabinet Member
“The Chief Executive”	means the Officer appointed by Council to that post and the Head of Paid Service
“The Chief Finance Officer”	means the Officer appointed by the Council to be responsible for the proper administration of the authority’s financial affairs in accordance with section 151 of the Local Government Act 1972
“Clear Days”	means a complete period of 24 hours (including weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect
“Clear Working Days”	means a complete period of 24 hours (excluding weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect
“Directors” the Chief Executive	means those Officers who report directly to

“The Council”	means the Members of the Council meeting as a body
“Councillor”	means an elected Member of the Council
“Decision-Taker”	means the body or person, whether a Member or an Officer, who would be responsible for taking the proposed decision.
“Departure Decision”	means a decision which is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the authority’s approved Budget, and is not an Urgent Decision or a Very Urgent Decision.
“The Deputy Leader”	means the Cabinet Member notified by the Leader to the Chief Executive in writing to hold that office.
“Disciplinary Action”	means any action in relation to an Officer occasioned by misconduct which, if proved, would according to the usual practices of the authority, be recorded on the Officer’s personal file and includes any proposal for the dismissal of an Officer for any reason other than redundancy, permanent ill health or infirmity of mind or body but does not include a failure to renew a fixed term contract unless the authority has undertaken to renew such a contract
“The Executive”	means any part of the authority which is discharging Executive Functions
“Executive Function”	means any function of the authority which is to be discharged by the Executive by virtue of section 13 of the Local Government 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended, or any resolution of Council

“The Forward Plan”	is the statement of proposed executive key decisions prepared by the Executive in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012 as amended
“The Head of Paid Service”	means the Officer appointed by the Council to be the authority’s Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989 and in Boston Borough Council it is the Chief Executive
“Head of Service”	means an Officer who reports directly to the Chief Executive/Head of Paid Service or is designated by them to be a Head of Service
“Urgent Decision”	means an executive decision the implementation of which, in the opinion of the Decision-Taker, cannot reasonably be deferred to allow for Call-In
“Key Decision”	means an executive decision which is likely: (1.a) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council’s Budget for the service or function to which the decision relates; or (1.b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral wards in the area of the Council A decision maker may only make a key decision in accordance with the requirements of the Executive/Cabinet Procedure Rules set out in Chapter 3 of this Constitution

“The Leader”	means the Councillor for the time being elected by the Council to be Executive Leader
“The Leader of the Opposition”	means the Leader of the largest political group on the Council, no member of which group is a Member of the Cabinet
“The Monitoring Officer”	means the Officer designated by Council to be the authority’s Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and in Boston Borough Council it is the Head of Customer and Democratic Services/Solicitor to the Council
“Non-Executive Function”	means any function of the authority which is to be discharged by any part of the authority other than the Executive by virtue of Section 13 of the Local Government Act 2000, the Local Authority (Functions and Responsibilities) (England) Regulations 2000, as amended, and any resolution of the Council.
“Officer”	means all employees engaged by the authority to carry out its functions. This covers those engaged under short term, agency, contract or other non-employed situations to carry out such functions, to the extent that the Council has included conditions to that effect in any contractual arrangements under which they are working, as well as those employed by the Council on a permanent basis
“Reporting on meetings”	is defined in the Openness of Local Government Bodies Regulations 2014 as:- (1.b.a) Filming, photographing or making an audio recording of proceedings at a meeting; (1.b.b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;

(1.b.c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;

“The Policy Framework”

means the high level plans and strategies to be decided by Council, as set out in Chapter 2, Article 4 Paragraph 5

“The Proper Officer”

means an Officer appointed by the Council to discharge a particular function as set out in section 270(3) of the Local Government Act 1972.

“Statutory Chief Officer”

means the Chief Executive/Head of the Paid Service, the Section 151 Officer and the Monitoring Officer.

“Urgent Decision”

means an executive decision, which, in the opinion of the decision-taker is so urgent that it cannot reasonably await the publication of the next Forward Plan before it is taken.

“Very Urgent Decision”

means an executive decision, which in the opinion of the decision-taker is so urgent that it cannot reasonably await the giving of five days’ notice to the Chair of the Overview and Scrutiny Committee before it is taken

Article 2 - Members of the Council

1. Composition and eligibility

Composition

- 1.1 The Council comprises 30 directly elected Members, (known as "Councillors"). The area of the Council is divided into wards in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. Elections are then held on the basis of those wards.

Eligibility

- 1.2 Any person may stand for election and be elected as a Councillor if he/she is on the electoral register or if he/she has lived, worked or occupied property in the borough for 12 months prior to the election. There are legal Rules preventing a person from becoming or continuing as a Councillor (for instance if they are an employee of the Council or have been adjudged bankrupt, have been sentenced to a custodial sentence or have been disqualified from being a Councillor under the Local Government Act 2000).

2. Election and terms of office of Councillors

- 2.1 The regular election of Councillors will be held on the first Thursday in May once every four years from 2003 onwards. The terms of office for Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3. Filling of Casual Vacancies

- 3.1 Casual vacancies arising between regular elections will be filled in accordance with the requirements of the Representation of People Act 1983, as may be amended or replaced. The term of office of a Councillor elected at a by-election will be determined by legislation.

4. Roles and functions of all Councillors

- 4.1 Councillors have five main roles. They perform one or more of the following duties (subject to the proviso that there is no overlap between them and those Members who perform Executive and Scrutiny functions):
- a) community leadership and representation
 - b) executive decision-making
 - c) policy development and review
 - d) overview and scrutiny

- e) quasi-judicial and regulatory

4.2 Taken together these roles enable Councillors to:

- a) collectively, in meetings of the Council, be the ultimate policy makers and carry out a number of strategic and corporate management functions
- b) represent the communities of their electoral ward, bring their views into the Council's decision-making process and represent the Council to those communities
- i.e. become an advocate of, and for, their communities
- c) respond to constituents' enquiries and representations fairly and impartially, deal with individual casework and otherwise effectively represent the interests of their electoral ward and of individual constituents
- d) balance the different interests identified within the electoral ward, represent the ward as a whole and act as a point of mediation between the Council and the communities of their division
- e) be involved in decision-making in any of the five roles set out above
- f) represent the Council on other bodies
- g) adopt and maintain the highest standards of conduct

5. Rights and Duties

- 5.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law, however, this may not include certain confidential or exempt information.
- 5.2 Councillors will not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- 5.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

6. Conduct

- 6.1 Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of the Constitution.

7. Allowances

- 7.1 Councillors are entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

Article 3 - Residents and the Council

1. Residents' rights

- 1.1 Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

2. Voting and petitions

- 2.1 Residents on the electoral roll for the area have the right to vote and sign petitions as provided by law, for example in respect of executive arrangements.
- 2.2 Residents may also bring petitions in accordance with the Petition Scheme adopted by Council and implemented under the provisions of the Local Democracy Economic Development and Construction Act 2009.

3. Information

- 3.1 Residents have the right to:

- (1.a) attend meetings of the Council and its Committees except where confidential or exempt / personal information is likely to be disclosed, and the meeting is therefore held in private
- (1.b) attend meetings of the Cabinet when key decisions and other matters are being considered (except where confidential or exempt information is likely to be disclosed and part of the meeting is therefore held in private)
- (1.c) report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in The Openness of Local Government Bodies Regulations 2014 as:
 - (1.c.i) Filming, photographing or making an audio recording of proceedings at a meeting;
 - (1.c.ii) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
 - (1.c.iii) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present;

- (1.d) find out from the forward plan what key decisions will be taken by the Cabinet and when
- (1.e) see reports and background papers, and any records of decisions made by the Council and the Cabinet
- (1.f) inspect the Council's accounts and make their views known to the external auditor
- (1.g) receive information held by the Council subject to the Freedom of Information Act 2000

4. Participation

4.1 Residents have the right to:

- (1.a) participate in the Council's question time and present a petition at a meeting of the Council, in accordance with Appendix A, (Annex 1) and the Council's Petition Scheme (Annex 3).
- (1.b) present a petition to a meeting of the Cabinet, in accordance with the Council's Petition Scheme.
- (1.c) present a petition to other committee meetings in accordance with the Council's Petition Scheme.
- (1.d) ask questions, present petitions and participate in and contribute to investigations by the Overview and Scrutiny Committee in accordance with Appendix A (Annex 1), the Council's Petition Scheme.
- (1.e) speak on planning applications, in accordance with the Scheme of Public Participation at a Meeting of the Planning Committee contained within Part 5.
- (1.f) contact their local Councillor about any matters of concern to them

5. Complaints

5.1 Residents have the right to complain to:

- (1.a) the Council itself under its complaints procedure and receive a timely response
- (1.b) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct and receive a timely response

- (1.c) the Local Government Ombudsman after using the Council's own complaints procedure.

6. Residents' responsibilities

- 6.1 In return for these rights, residents must observe the law in their dealings with Councillors and Officers.

Appendix A

PUBLIC PARTICIPATION PROCEDURE

1. When Public Participation will operate

1.1 Members of the public will be able to participate at meetings of:

- (1.a) The Full Council
- (1.b) The Cabinet
- (1.c) The Overview and Scrutiny Committee
- (1.d) The Licensing Committee and Licensing Sub-Committee ¹;
- (1.e) The Planning Committee ²
- (1.f) The Audit and Governance Committee
- (1.g) Boston Town Area Committee (BTAC)

1.2 Participation at the meetings detailed at 1.1 above can be through either asking questions, making statements or presenting petitions at a designated part of the meeting. For more information about which provisions apply to particular meetings, please see the footnotes below.

1.3 At other council meetings that are open to the public but not referred to in 1.1 above, formal or informal means of public participation may be permitted at the discretion of the Chair of the Committee.

1.4 The arrangements for public participation at the meetings will be as follows:-

- (4.a) Annex 1 Procedure for Public Questions at Meetings
- (4.b) Annex 2 Procedure for Public Participation in Planning Committee Meetings

¹ *where a public hearing is being conducted by the Licensing Sub-Committee, public participation shall be considered only in accordance with the separate procedure applying to such hearings. Please see Part 3, Appendix C for further information.*

² *a separate public participation procedure operates where the Planning Committee is determining planning or other applications, as set out in Part 5.*

Authority of the Chairman

- 1.5 The Chairman will have the right to stop persons from speaking at any time if he/she considers any speech to be defamatory, improper or outside the responsibilities of the Council.
- 1.6 The Chairman may vary or suspend the operation of public participation in advance of or during a meeting, if he/she considers:
 - (6.a) that it is necessary to do so for the purpose of maintaining order at the meeting; or
 - (6.b) that it is convenient and conducive to the dispatch of business to do so.

Article 4 - The Council

1. Composition

- 1.1 The Council comprises the 30 directly elected Councillors meeting as a body (or as many of those Councillors who are in office at the time concerned).

2. Council Meetings

- 2.1 All members of the Council meet together, normally in the Council Chamber, to debate and conduct business which is appropriate to the full assembly of Boston Borough Councillors. There are three types of Council meeting:-

- The Annual Meeting
- Ordinary Meetings; and
- Extraordinary Meetings

3. Functions of the Council

- 3.1 The Council has the following functions:

- (a) Adopting and changing the Constitution, except in so far as this function has been delegated to the Monitoring Officer.

- (b) Approving, adopting or amending the Policy Framework which comprises the following;

- (i) Those required by statute:

- Performance Improvement Plan
- Community Plan
- Crime and Disorder Reduction Strategy
- Local Development Framework (and associated statutory documents)
- Food Law Enforcement Service Plan
- Housing Investment Programme (Housing Strategy and Homelessness Strategy)
- Licensing Policy
- The Budget (Budgetary Framework)
- Capital Programme (Budgetary Framework)
- Corporate Strategy or Plan

- (ii) The other plans and strategies adopted by the Council as part of the Policy Framework:
 - Asset Management Plan
 - Capital Strategy (Budgetary Framework)
 - Treasury Management Strategy and Policy (Budgetary Framework)
 - Equal Opportunities Policy
 - Human Resources Strategy
 - Corporate Governance Policies and Strategies
 - Local Area Masterplan
 - Environmental Policy
 - Risk Management Strategy and Policy
 - Procurement Strategy
 - Corporate Governance Code
 - Medium Term Financial Plan (Budgetary Framework)

- (c) Approving the Budget. The budget includes -
 - The allocation of financial resources to different services and projects
 - The proposed contingency funds
 - The council tax base
 - Setting the council tax
 - Decisions relating to the control of the Council's borrowing and requirement, the control of its capital expenditure and the setting of the virement limits

- (d) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 8 of this Constitution, making decisions about the discharge of an Executive Function where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget

- (e) Appointing or removing the Leader

- (f) Appointing the Chairman and Vice Chairman of other Council Bodies. Where the Council does not appoint the Chairman and Vice Chairman, the body itself may do so.

- (g) Agreeing and/or amending the terms of reference for Committees of Council, deciding on their composition and making appointments to them
- (h) Appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council
- (i) Conferring the title of Honorary Freeman or the Freedom of the Borough
- (j) Adopting a scheme for Members' allowances
- (k) Changing the name of the area
- (l) Confirming the appointment or dismissal of the Head of Paid Service, Section 151 Officer and Monitoring Officer
- (m) Making, amending, revoking, re-enacting or adopting bylaws, or promoting or opposing the making of local legislation or personal Bills
- (n) All local choice functions set out in Part 3 of this Constitution which the Council decide should be undertaken by itself rather than the Cabinet.
- (o) Consideration of reports from the:-
 - Cabinet
 - Overview and Scrutiny Committee
 - Regulatory Committees
 - Audit and Governance
 - Any other body constituted by the Council
- (p) All other functions which the Council lawfully decides should be undertaken by itself rather than the Leader / Cabinet and which are set out in this Article 7 of the Constitution
- (q) Deal with major matters relating to elections, including considering proposals relating to status and the variation of District Boundaries, electoral divisions, wards and polling districts
- (r) To determine matters relating to local government pensions where these are not delegated to officers, in accordance with the regulations made under the Superannuation Act 1972
- (s) All other matters which, by law, must be reserved to Council

4. Council meetings

- 4.1 Council meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this chapter of the Constitution. Council meetings will be Chaired by the Mayor (or Deputy Mayor where appropriate).

5. Responsibility and delegation of functions

- 5.1 The Council may arrange for the discharge of any of its functions by a Committee of the Council, a Sub-Committee of the Council or by an Officer, subject to certain functions such as setting the Budget and Council Tax, decisions that depart from the Budget and Policy Framework or appointing the Chief Executive which are reserved by statute exclusively to Council. Similarly, a Committee may delegate any of its functions to a Sub-Committee or an Officer, and a Sub-Committee may delegate any of its functions to an Officer.

Article 5 - The Mayor and Chairing the Council

1. Election

- 1.1 The Council will elect the Mayor annually at its Annual Meeting.
- 1.2 The Mayor may choose his/her own Deputy Mayor from amongst the Members of the Council. The Deputy Mayor will be formally appointed at the annual meeting of the Council.

2. Mayor's Term of Office

- 2.1 The Mayor will remain in office until:
 - (a) the election of his/her successor at the next Annual Meeting, notwithstanding that he/she may cease to be a Councillor by reason of non-re-election
 - (b) his/her ceasing to be a Councillor by virtue of being disqualified from office, or
 - (c) his/her removal from office by a resolution of Council

3. Mayor's Functions and Responsibilities

- 3.1 The Mayor and in his or her absence the Deputy Mayor will have the following functions and responsibilities:
 - (a) To be non-political for the duration of the Mayoralty
 - (b) Act as the symbolic head and chief citizen of the Borough
 - (c) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
 - (d) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community
 - (e) To exercise a second and casting vote at meetings of the Council in the event of a tied vote
 - (f) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Leader / Cabinet to account
 - (g) To promote public involvement in the authority's activities

- (h) To be the conscience of the authority
- (i) To attend such civic and ceremonial functions as the Council and he/she determines appropriate
- (j) To decide (in the absence of the Chair of the Overview and Scrutiny Committee) whether a matter is so urgent as to allow the Cabinet to take a decision in respect of it even though it is not contained in the Forward Plan and 5 clear days' notice of the decision have not been given; or that decision concerns a plan or strategy forming part of the Budget or Policy Framework and would be contrary to or, in the case of the Budget not wholly in accordance with, that framework.
- (k) To decide if a Cabinet decision is urgent and should be exempt from the call-in process.

3.2 The Mayor and, in his/her absence, the Deputy Mayor will have the use of the Mayor's Parlour and motor car and the services of the Mayor's Officer for the performance of civic and ceremonial duties.

3.3 The Mayor and his/her Mayoress/Consort will have the right to wear the appropriate chain and badge of office when performing civic and ceremonial duties or (in the case of the Mayor) chairing the Council meeting. Similarly, the Deputy Mayor and his/her Deputy Mayoress/Consort will have the right to wear the appropriate chain and badge of office when performing civic and ceremonial duties or (in the case of the Deputy Mayor) chairing the Council meeting.

4. Mayoral Appointment Protocol

4.1 The appointment of Mayor will be made on a seniority basis.

4.2 The Member who has the longest period of service, including accumulated service, and has not previously held the office of Mayor, will be offered the Mayoralty for a period of one year commencing at the Annual Meeting of the Council in May each year.

4.3 In cases where there is equal length of service including accumulated time, the Member with the earliest period of service will take priority for seniority purposes.

4.4 Where there is equal length of service, but no previous service, the order of seniority will be determined by the drawing of lots.

4.5 Members will be permitted to defer acceptance of the office of Mayor for a period of two years, after which time they will be placed at the bottom of the seniority list until the next full council elections.

- 4.6 If re-elected, the Member will be returned to their rightful place in the order of seniority for the municipal year after the election year (e.g. election year 2019, returned to order of seniority for municipal year 2020/21).

Article 6 - Overview and Scrutiny Committee

6.1 Composition

The Council will appoint at the Annual Meeting, an Overview and Scrutiny Committee. The Council can change the number of Overview and Scrutiny Committees. No Cabinet Members may be appointed to the Overview and Scrutiny Committee.

The Scrutiny Committee has no executive powers; it must make recommendations to the Cabinet or full Council if it wishes for action to be taken. Whilst the Council's scrutiny arrangements have been established to provide an independent process for reviewing Council decisions and policies, scrutiny should not be a confrontational or divisive process. It is intended to complement and add value to the work of the Cabinet.

6.2 General Role of Overview and Scrutiny Committee

Within its terms of reference the Overview and Scrutiny Committee will:

- (a) Review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- (b) Make reports and recommendations to the Cabinet and/or full Council and/or any Committee in connection with the discharge of any functions.
- (c) Consider any matter affecting the area of Boston or its inhabitants and make reports and recommendations.
- (d) In accordance with the procedures for Call-In, exercise the right to call-in for reconsideration decisions falling within their remit which have been made but not yet implemented by the Cabinet or on behalf of the Cabinet and undertake reviews aiming to improve the efficient and effective delivery of services to local people.

6.3 Within its terms of reference the Overview and Scrutiny Committee has the following specific functions:

(a) **Policy Development and Review**

- To assist the Council and Cabinet in the development of its Policy Framework and Budget by analysis of policy issues facing the council for report and recommendation to the Cabinet or Council.
- To conduct research, community and other consultation in the analysis of options
- To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- To 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**

- To scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
- To scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- Subject to all applicable codes of conduct on Officer/Member protocols, to question members of the Cabinet, Chairmen of Committees; and appropriate officers about their decisions.
- To make reports and recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process.
- With their consent, and subject to all applicable rules of conduct, to make reports and recommendations to the Cabinet or the Council on matters which affect the Council's area and its inhabitants

(c) **Finance**

- To work within the approved budgets of the Council.

(d) Annual Report

- To report annually to the Council on its activities and make recommendations for future work programmes and amended working methods if appropriate.

Article 7 - The Leader and Cabinet Executive

1. Role

- 1.1 The Council has decided to adopt the Leader and Cabinet form of executive. Part 4 sets the rules for how the Leader and Cabinet will operate. These include arrangements for meetings, individual decision-making, and the scheme of delegation and sub-delegation of functions. The Cabinet (meaning the Leader and such other Members of the Council as the Leader may appoint) will carry out all of the Authority's functions which are not the responsibility of any other part of the Authority, whether by law or under the Constitution. The Leader may take decisions on every matter that is not assigned to anyone else by this constitution. The Leader may however, make arrangements to delegate some matters to the Cabinet, a Cabinet Committee, individual Cabinet members, or to employees.

2. Form and composition

- 2.1 The Cabinet will consist of the Leader together with such other number of Councillors as the Leader may determine (being not more than 9) appointed by the Leader. Such appointment as a Cabinet Member shall be effected by notice in writing from the Leader delivered to the Chief Executive. Only Councillors may be appointed to the Cabinet. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet. Cabinet members may not be members of the Overview and Scrutiny Committee. The Leader must appoint one Member of the Cabinet to be his/her deputy.

3. Leader

- 3.1 The Leader will be a Councillor elected for a term of 4 years (subject to (a) - (d) below) to the position of Leader by the Council and he or she shall not be the Mayor or Deputy Mayor or a member of a Scrutiny Committee.:

- (a) He/she resigns from the office; or
- (b) He/she is no longer a Councillor; except where the Leader fails to be returned as a Councillor following an election. Unless the Leader resigns, is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting; or until
- (c) He/she is removed from office by a resolution of Council.

4. Other Executive / Cabinet Members

4.1 Cabinet members appointed by the Leader shall hold office until:

- (a) They resign from office; or
- (b) They are no longer Councillors; or
- (c) They are removed from office by the Leader, by notification of removal made in writing by the Leader to the Chief Executive and to the Cabinet member concerned. The removal will take effect immediately after receipt of the notice by the Chief Executive.

5. Deputy Leader

5.1 The Leader shall appoint a Cabinet Member to be Deputy Leader, by notifying the Chief Executive in writing of such appointment.

5.2 The Leader shall delegate to the Deputy Leader power to exercise any Executive Function which is exercisable by the Leader, to be exercised by the Deputy Leader when the Leader is unable to act by reason of absence or conflict of interest.

5.3 The Deputy Leader, unless he/she resigns as Deputy Leader, is removed by the Leader or ceases to be a Member of the Council, will hold office until the end of term of office of the Leader.

5.4 If for any reason the Leader is unable to act or the office of the Leader is vacant the Deputy Leader must act in his place.

5.5 If for any reason the Leader is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in his place.

6. Vacancies in the Executive / Cabinet

6.1 If at any time a person shall, by virtue of this Article, cease to be a Member of the Cabinet, the responsibilities of that Member shall be carried out by the Leader / Cabinet collectively in so far as permitted by law until such time as the Leader shall have appointed a replacement or, where appropriate, re-appointed the Member concerned.

6.2 In the event of there being no Leader, Deputy Leader or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive in so far as is permitted by law.

7. Removal from office

- 7.1 The Leader may be removed from office by resolution of the Council, on a notice of motion by the Council.
- 7.2 In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of the Leader until the new Leader is elected by the Council.
- 7.3 Cabinet Members (including the Deputy Leader) may be removed from office and a new Member appointed, either individually or collectively upon the decision of the Leader.
- 7.4 The Leader will notify the Monitoring Officer and the Cabinet Member affected in writing of the decision. The removal of the Cabinet Member will take effect on receipt of the Leader's written notice to both the Cabinet Member and the Monitoring Officer. The Monitoring Officer will keep a record of any removal of a Cabinet Member and the Leader will report any such removal to Cabinet at the earliest opportunity.

8. Proceedings of the Executive / Cabinet

- 8.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4.

9. Responsibility and delegation of functions of the Leader / Cabinet

- 9.1 The Leader may discharge any of the functions of the Leader / Cabinet.
- 9.2 The Leader may delegate any of the functions of the Leader to the Cabinet, to a Committee of the Cabinet, to an individual Cabinet Member or to an Officer.
- 9.3 A Cabinet Committee may delegate the discharge of any of its functions to an individual Cabinet Member or to an Officer.
- 9.4 An individual Cabinet Member may delegate the discharge of any of his/her functions to an Officer.
- 9.5 The Monitoring Officer will maintain a Register of the Delegation of the Executive Functions and will record any alterations to the allocation of the responsibility for the discharge of the executive functions.

Article 8 - Committees and Sub-Committees of Council**1. Committees**

- 1.1 The Council may appoint such Committees as it determines for the effective discharge of its functions. It has determined to appoint the following Committees, each comprising the following number of Councillors:

	Name of Committee	Number of Members	Quorum
(a)	Planning Committee	13 Councillors	5
(b)	Licensing, Regulatory and Appeals Committee	13 Councillors	3
(c)	Chief Officer Employment Panel	6 Councillors	3
(d)	Audit & Governance	11 Councillors + 1 co-opted non-voting	5
	Hearing Panels	5	3
(e)	Overview and Scrutiny	15 Councillors	5
(f)	International Links	5 Councillors	2
(g)	South East Lincolnshire Joint Strategic Planning Committee	3 Councillors	
(h)	Boston Town Area Committee (BTAC)	14 Councillors	6
(i)	Councillor Development Group	10 Councillors	3
(j)	Joint Chief Officer Employment Panel	4 Councillors	
(k)	Joint Appointment Appeals Committee	4 Councillors	
(l)	Joint Strategy Board	7 Councillors	

2. Functions

- 2.1 The terms of reference of each Committee are set out in Part 3, Responsibility of Functions of the Constitution, and each Committee has delegated authority to discharge those functions within the Budget and Policy Framework of the authority.

3. Sub-Committees

- 3.1 Each Committee may appoint such Sub-Committees as it considers necessary for the effective discharge of its functions and may arrange for the discharge of any of its functions by such Sub-Committee.

4. Appointment

- 4.1 The Council shall appoint the Members of each Committee at the Annual Meeting of Council, or at the next convenient meeting thereafter, or as and when a vacancy has arisen. Each Committee shall appoint the Members of each of its Sub-Committees at the first meeting of the Committee after the Annual Meeting of Council, or as and when a vacancy has arisen.
- 4.2 Each Member of a Committee or Sub-Committee shall remain in office until:
- (a) he/she resigns as a Member of the Committee or Sub-Committee
 - (b) he/she ceases to be a Councillor; or
 - (c) the Council appoints another person to act in place of the Member.
- 4.3 Where proportionality must apply the Council will allocate accordingly. Where proportionality does not apply, seats will be allocated at the discretion of the Council. Except for BTAC which is comprised of Members for all town area wards.
- 4.4 The Council may appoint persons who are not members of the authority to any Committee as co-opted Members. Any such appointment(s) shall be undertaken in accordance with the Council Procedure Rules at Part 4 of this Constitution.

5. Proceedings

- 5.1 Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 2 of this chapter.

Article 9 - Area Committees and Forums

9.1 Area Committees

The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. To date no Area Committees have been formally appointed.

9.2 Consultations

The Council will consult with relevant Parish Councils and with the Boston Town Area Committee when considering whether and how to establish Area Committees.

9.3 Conflict of Interest

A Councillor may not speak or vote at the Overview and Scrutiny Committee meeting (unless a dispensation to do so is given by the Monitoring Officer) if the Committee is scrutinising specific decisions or proposals in relation to the business of an Area Committee of which the Councillor is a member.

9.4 General Policy Reviews

Where the Overview and Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

9.5 Area Committees - Access to Information

Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area and committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which is which.

9.6 Cabinet Members on Area Committees

A Cabinet Member may serve on an Area Committee if otherwise eligible to do so as a Councillor.

9.7 Area Forums

The Borough Council may establish Area Forums to be consultative and advisory bodies to which matters may be referred by the Council, the Leader or Cabinet, Scrutiny Committee or Regulatory Committees. The Borough Council is considering whether to establish Area Forums.

Article 10 - Joint Arrangements

1. Arrangements to promote well being

1.1 The Council or the Cabinet, in order to promote the economic, social and 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; or
- (c) exercise on behalf of that person or body any functions of that person or body

1.2 Joint Arrangements

The Council may establish joint arrangements with one or more local authority and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee or Board with these other local authorities. The Council may, where the legislation allows, also establish other joint arrangements.

1.3 The Cabinet may establish joint arrangements with one or more local authorities or other organisations to exercise functions which are Executive functions or to advise the Cabinet. Such arrangements may involve the appointment of joint Committees or Boards with these other local authorities or bodies. The Cabinet may, where the legislation allows, also establish other joint arrangements.

1.4 Except as set out in below, the Cabinet may only appoint Cabinet Members to a Joint Committee and those Members need not reflect the political composition of the local authority as a whole.

1.5 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet if the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a Member of a ward which is wholly or partly contained within the area. The political balance does not apply to such appointments.

1.6 Where both executive and non-Executive Functions are delegated to a Joint Committee, appointments to the joint Committee or Board will be made by the Council.

- 1.7 Details of any joint arrangements including any delegations to Joint Committees or Boards shall be set out in this Constitution, if made.

1.8 **Access to Information**

If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities then the Access to Information Rules relating to the Cabinet will apply.

- 1.9 If the Joint Committee contains Members who are not on the Cabinet of any participating authority then the Access to Information Rules and Part VA of the Local Government Act 1972 will apply.

1.10 **Delegation to and from other local authorities**

The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.

- 1.11 The Cabinet may delegate Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.

- 1.12 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

1.13 **Delegation to and from other organisations**

The Council may delegate non-Executive Functions to other organisations where legislation allows.

- 1.14 The Cabinet may delegate Executive Functions to other organisations where legislation allows.

- 1.15 The decision whether or not to accept such a delegation from another organisation shall be reserved to the Council.

Article 11 - Officers

1. Management structure General

- 1.1 Full Council may engage such Officers as it considers necessary to carry out its functions, in light of advice and guidance from the Head of Paid Service
- 1.2 Appointment of officers cannot be the responsibility of the Cabinet. Appointment of officers below Head of Service level must be the responsibility of the Head of Paid Service or their nominee.
- 1.3 Where the Head of Paid Service has agreed to vary the establishment, Council has agreed that the Monitoring Officer shall be authorised to make the necessary consequential amendments to this Article.

Head of Paid Service, Monitoring Officer and Chief Finance Officer

- 1.4 The Council will designate the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer. Currently the following Officers set out below are designated to these posts:
 - Head of Paid Service - Chief Executive
 - Monitoring Officer - Head of Customer & Democratic Services/Solicitor to the Council
 - Chief Finance Officer - Strategic Director

Structure

- 1.5 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is contained at Part 7.

2. Functions of the Chief Executive/Head of Paid Service

- 2.1 Overall corporate management and operational responsibility (including overall management responsibility for all Officers).
- 2.2 Provision of professional advice to all parties in the decision making process.
- 2.3 Together with the Monitoring Officer responsibility for a system of record-keeping for all the Council's decisions, executive or otherwise.
- 2.4 Represents the Council on partnership and other external bodies (as required by statute or the Council).

- 2.5 In the absence of the Monitoring Officer to carry out the functions of the qualified person for the purposes of section 36 of the Freedom of Information Act 2000 (prejudice to effective conduct of public affairs).
- 2.6 To act as the Returning Officer for the Local Government Elections.
- 2.7 To act as Electoral Registration Officer.

3. Functions of the Monitoring Officer

Maintaining the Constitution

- 3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

Ensuring lawfulness and fairness of decision-making

- 3.2 After consulting with the Chief Executive and Chief Finance Officer where practicable, the Monitoring Officer will report to the full Council in respect of a non-Executive Function or to the Cabinet in relation to an Executive Function if he or she considers that any proposal, decision or omission has given rise to or would give rise to unlawfulness or if any decision or omission has given rise to maladministration, under sections 5 and 5A of the Local Government and Housing Act 1989. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Audit and Governance Committee

- 3.3 The Monitoring Officer and the s.151 Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee.

Receiving reports

- 3.4 The Monitoring Officer will receive and act on reports and decisions of case tribunals.

Conducting investigations and taking other actions

- 3.5 The Monitoring Officer may arrange the conduct of investigations into matters referred to him or her and shall take such other actions as the Audit and Governance Committee may direct within its terms of reference.

Maintaining the Register of Members' Interests

- 3.6 The Monitoring Officer shall maintain the register of Members' interests and shall report annually to the Audit and Governance Committee on the performance of this function.

Proper Officer

- 3.7 Act as the Proper Officer as required. References to the Proper Officer in this Constitution are defined in

Advising whether Executive decisions are within the Budget and Policy Framework

- 3.8 The Monitoring Officer, together with the s.151 Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

Providing advice

- 3.9 The Monitoring Officer and s.151 Officer will be responsible for providing advice on the scope of the powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors.

Contributing to corporate management

- 3.10 The Monitoring Officer and the s.151 Officer will contribute to the corporate management of the Council, in particular through the provision of legal advice and advice on probity and good administration.

Restrictions on posts

- 3.11 The Monitoring Officer cannot be the s.151 Officer or the Chief Executive.

4. Functions of the Section 151 Officer (s.151)

Ensuring lawfulness and financial prudence of decision-making

- 4.1 After consulting with the Chief Executive and the Monitoring Officer where practicable, the s.151 Officer will report to the full Council in respect of a non-Executive Function or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

Administration of financial affairs

- 4.2 The s.151 Officer will have responsibility for the administration of the financial affairs of the Council as required by section 151 of the Local Government Act 1972 or (so far as relevant) section 112 of the Local Government Finance Act 1988, including the provision of financial information both internally and externally as required.

Advising whether Executive decisions are within the Budget and Policy Framework

- 4.3 The s.151 Officer will advise whether decisions of the Cabinet are in accordance with the Budget framework.

Providing advice

- 4.4 The s.151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

5. Duty to provide sufficient resources to the Monitoring Officer and s.151 Officer

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

6. Delegation to Officers

- 6.1 The officer scheme of delegation is set out in Part 3

7. Conduct

- 7.1 Officers will comply with the Officer Code of Conduct and Member/Officer Relations' Protocol set out in Part 5 of this Constitution.

8. Appointment and dismissal of staff

- 8.1 The appointment and dismissal of staff shall be governed by the provisions of the Officer Employment Procedure Rules contained in Part 4 of this Constitution as supplemented, where appropriate, by the Council's human resources policies and procedures.

Article 12 - Decision Making and allocation of functions between the Council and Cabinet

1. Responsibility for decision making

- 1.1 Section 13 of the Local Government Act 2000 provides that all the functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation). The reservation of functions to the Council is made under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') define those functions:
- a) which must not be discharged by the Executive
 - b) which may be the responsibility of the Executive and
 - c) which may not be the sole responsibility of the Executive and
 - d) circumstances in which functions which would otherwise be functions of the Executive fall to be discharged other than by the Executive.
- 1.3 The Council therefore only has discretion to define the split of functions between the Council ("Council functions") and the Executive ("Executive functions") in respect of those which fall within categories (b) and (c) above.
- 1.4 "Council Functions" shall therefore comprise:
- a) those functions which are reserved as Council functions by the Act, or by other or subsequent legislation
 - b) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Regulations or subsequent regulations made under the Act
 - c) the adoption or approval of plans and strategies (the "Policy Framework") set out in Schedule 3 of the Regulations together with such other plans and strategies as the Council may identify from time to time for this purpose.

1.5 The Council may make arrangements under section 101 of the Local Government Act 1972 for the discharge of any of its functions by:

- a) a Committee
- b) a Sub-Committee
- c) a Joint Committee
- d) another local authority
- e) an Officer

1.6 The arrangements for the discharge of functions in relation to Committees and the Scheme of Delegation are set out in Part 3 of this Constitution.

1.7 Under section 15 (2) of the Local Government Act 2000, the Council may make provision that specific Executive Functions shall be allocated to, and discharged by:

- a) the Cabinet (as a body)
- b) an individual Member of the Cabinet
- c) a Committee of the Cabinet
- d) an Officer

Note: The law has been amended in England so that a Cabinet Leader alone will make the initial delegations (which the Cabinet or Officers, may then develop for those functions allocated to them).

1.8 The Council has provided that actions in connection with Executive Functions shall be allocated to the Cabinet (except in so far as allocated to an individual Member of the Cabinet) and accordingly under section 14 (3) of the Act the Cabinet can either discharge such functions itself or delegate them to an Officer, unless the Leader has determined otherwise (in the case of a function which he has arranged to be discharged by the Cabinet, a Member of the Cabinet or a Committee of the Cabinet).

2. Principles of decision making

2.1 All decisions of the Council will be made in accordance with the following principles:

- a) In accordance with the Council's legal powers and this Constitution

- b) With due regard to the professional advice of officers
- c) Due regard for the individuals and communities served by Boston Borough Council
- d) Following appropriate consultation
- e) Proportionality (i.e. the action must be proportionate to the desired outcome)
- f) Due consultation in line with the Council's consultation strategy as agreed from time to time and the taking of professional advice from Officers
- g) Respect for human rights
- h) A presumption in favour of openness
- i) Clarity of aims and desired outcomes (i.e. link between strategy and implementation)
- j) Financial Probity and Consistent with the Council's Budget and Policy Framework

3. Types of decision

Decisions reserved to full Council

- 3.1 Decisions relating to the functions listed in Article 4 will be made by the full Council and not delegated.

Key decisions

- 3.2 A key decision means an executive decision which is likely:
- a) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's Budget for the service or function to which the decision relates; or
 - b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the Council.

A decision maker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

In accordance with s.38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance issued by the Secretary of State.

Other decisions

- 3.3 The Council has appointed a number of Committees to carry out certain prescribed functions that cannot be undertaken by the Cabinet. These Committees and their responsibilities are described in Part 3 of the Constitution.

4. Rules for Decision making

- 4.1 The Council, the Cabinet (including the Cabinet, any Committee of Cabinet and individual Members of the Cabinet), the Overview and Scrutiny Committee and other Committees and Sub-Committees established by the Council will follow the Rules relating to that body set out in this Constitution when considering any matter.

5. Officer Decisions

- 5.1 Subject to Rule 6.1 Officers making decisions must follow:

- The Employee Code of Conduct
- The Council’s Financial Rules
- The Council’s Contract Procedure Rules

6. Procedure for Decision making by Council bodies acting as tribunals

- 6.1 The Council, a Councillor or an Officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) - civil rights and obligations of any person will follow a proper procedure which accords in so far as is possible with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

7. Scrutiny of Decisions

- 7.1 The Council has appointed an Overview and Scrutiny Committee to scrutinise decisions taken by the Cabinet. The responsibilities and terms of reference of that Committee is described in Part 3 of the Constitution.

Article 13 - Finance, Contracts and Legal Matters

1. Financial management

- 1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in this Chapter and any guidance issued by the Chief Finance Officer.

2. Contracts

- 2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in this Chapter.

3. Legal proceedings

- 3.1 The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

4. Authentication of documents

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council or Cabinet has given requisite authority to some other person.

5. Common Seal of the Council

- 5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or Cabinet, of a Committee or Sub- Committee, a Committee of Cabinet or a Cabinet Member, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Head of Legal & Democratic Services should be sealed or are required by the provisions of the Contract Procedures to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Solicitor to the Council or some other person authorised by him/her.

5.2 Signing of Contracts

Every contract of less than £10,000 in value or amount shall be in writing and signed by an authorised Officer.

Every contract in excess of £10,000 in value or amount but not exceeding £100,000 in value or amount shall be in writing and signed by the Chief Executive, appropriate Corporate Director or nominated person.

Every contract in excess of £100,000 in value or amount shall be in writing and signed by the Council's Chief Executive or nominated person.

Article 14 - Review and Revision of the Constitution

14.1 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

14.2 Protocol for Monitoring and Review of the Constitution by Monitoring Officer

It will be the duty of the Monitoring Officer to make such recommendations for changes as may be necessary in order to better achieve the purposes set out in Article 1. In undertaking this duty the Monitoring Officer will have regard to any legislative changes affecting the Constitution and may:-

- Observe meetings of different parts of the Member and officer structure;
- Undertake an audit trail of a sample of decisions;
- Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

14.3 Changes to the Constitution

a) Approval

Changes to the Constitution will only be approved by full Council after consideration of a report prepared by the Monitoring Officer. (This shall exclude variations to the Scheme of Delegation to authorise officers to carry out powers, duties or functions on behalf of the Council agreed by the Cabinet or by the relevant Regulatory Committee from time to time or changes which are a matter of fact or record.)

b) Change from a Leader and Cabinet form of Executive to another form of executive arrangements or alternative arrangements.

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and, in the event of the proposals including a mayoral form of executive, must hold a binding referendum.

Article 15 - Suspension, Interpretation and Publication of the Constitution

1. Suspension of the Constitution

- 1.1 The Articles of this Constitution may not be suspended. Other Rules and protocols may be suspended by the body to which they apply (or if no such body then by the Council) to the extent permitted within those Rules and the law.
- 1.2 A motion to suspend any Rules may not be moved without notice unless at least two thirds of the whole number of Councillors is present. The extent and duration of suspension should be proportionate to the result to be achieved.

2. Interpretation

- 2.1 The ruling of the Mayor of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1. Before making a ruling the Mayor shall have regard to the advice of the Monitoring Officer.

3. Publication

- 3.1 The Monitoring Officer will provide an electronic copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council. Printed copies can be provided on request.
- 3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee, which must meet the cost of production.
- 3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.
- 3.4 The Monitoring Officer shall ensure that a record is kept of any changes to this Constitution which shall be re-issued in up to date form as soon as practicable after any substantial changes have been made to it.
- 3.5 The Monitoring Officer shall ensure that an up-to-date version of the Constitution is available on the Council's website.

JOB DESCRIPTION – CHIEF EXECUTIVE

JOB INFORMATION		
Job Title	Chief Executive/Director	
Service Area	Chief Executive's	
Grade	CEX	
Hours	37	
ACCOUNTABILITIES		
Responsible to	Leader of the Council	
Budget	Overall council budget	
JOB PURPOSE		
- To provide strategic, visionary and management leadership for the Council and its stakeholders. - To ensure the Council's priorities are appropriate, effectively resourced and that measurable outcomes are achieved. - To be the statutory Head of Paid Service, Electoral Registration Officer and Returning Officer. - To oversee the management of the Council's financial, human and other resources. - To be the prime interface between Officers and Elected Members in ensuring that the Council's vision, corporate and community objectives are achieved.		
JOB REQUIREMENTS		
Qualifications & experience	Technical knowledge/skills	Behavioural skills
- Professional leadership experience at senior level in a complex organisation - Proven ability to work in a political environment and establish effective working relationships with members. - A track record of developing & implementing continuous improvement and improved outcomes in service delivery - A track record of delivering improved value for money - Experience of leading and delivering significant change and business improvement initiatives, including people & cultural change - Experience of developing - Experience of leading & managing service delivery across a multi-disciplinary area & project management - Evidence of effective budget management and delivering cost reductions whilst improving services - Evidence of internal & external partnership working – establishing trust & credibility	- Ability to translate national & local policy direction and strategic objectives into practical local plans & action - Effective financial management skills - Ability to manage high performance through people - Accomplished analytical and decision making skills - Excellent verbal & written communication skills - Understanding of business process re-engineering - In depth understanding of functions and statutory role of a local authority including standing orders and financial regulations; - Understanding of working within a community with differing needs; - Well developed influencing, negotiating and advocacy skills; - Ability to resolve conflict and be confident of dealing with crisis situations;	- Ethical behaviour - Instils pride - Gains respect & trust - Champions equality & fairness - Sets a vision - Drives high standards - Challenges assumptions - Takes managed risks - Takes up staff ideas - Creative, seeks out best practice, nurtures & develops independent thinkers - Committed to learning & development - Mentors & coaches - Provides feedback - Supportive & empathetic - Builds effective relationships & resolves conflict - Manages conflicting priorities effectively, with resilience to keep management performance on track during periods of uncertainty & change. Exhibit the Nolan principles: Selfless Integrity Objectivity Accountability Openness Honesty Leadership
Main duties & responsibilities		
- To lead the Council's Corporate Management Team with collective responsibility for the managerial leadership of the Council - To contribute to corporate programme boards which develop strategy and policy, implement programmes and projects and monitor performance - To ensure Members of the Council are supported in their leadership & community roles - To contribute to developing the Council's Corporate Plan & other strategies. Specifically: Medium Term Financial Strategy		

To be accountable for those budgets related to the Service, ensuring compliance with the Council's Constitution and Standing Orders and that the Council receives value for money from its expenditure.		
Candidate screening GCSX check required – includes disclosure Scotland – Basic Disclosure	Rehabilitation of Offenders Act applies: NO	Disclosure & Barring Service check required: NO
Politically Restricted Post	YES	
Managers responsibilities		
To ensure at all times that a corporate view is adopted and that complaints (both internal & external) are dealt with promptly and effectively.		
To prepare and review annual service delivery plans in support of the overall corporate plan, annual learning & development plan, internal improvement plans and other requirements e.g. legislation.		
To be responsible for accurate monthly or quarterly reporting on progress against service delivery objectives and key performance indicators and for reporting this information to CMT & portfolio holders		
To prepare and present detailed and complex reports to Cabinet, Committees, and Working Groups as necessary.		
To undertake and be accountable for budgetary management within the activities controlled and balance budgets in accordance with Contract Procedure Rules and Financial Regulations.		
To manage and be accountable for all matters relating to the workforce (including volunteers) under their control in line with the Council's policies & procedures including: a) effective induction including attendance by all employees at corporate induction training b) providing direction for teams and individuals c) recruitment & selection including safer recruitment where applicable d) skills & knowledge development to be competent in their job roles e) attendance management • completing all required documentation • holding return to work interviews • regularly reviewing sickness levels • holding absence reviews • managing long term sickness through regular HR contact/ liaison f) discipline g) grievance h) appraisal & performance management by setting individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives i) employee relations j) communication & listening (via monthly team meetings and regular informal methods) k) workforce planning (See Workforce Planning Guidance for Managers HRP010 for further information) l) safeguarding children and vulnerable adults - m)		
To set individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives		
Ensure delivery of a safe working environment by ensuring that health & safety legislation and Council procedures are implemented and adhered to; employees are involved in health & safety management including attending necessary training; risks are assessed, control measures are implemented and information is effectively communicated to teams and individuals; reports include details of high level risks where relevant		

To ensure that strategic & operational risks are considered and that appropriate actions and/or reporting are put into place to manage these.

To effectively brief senior members on relevant matters in conjunction with the relevant CMT member as appropriate.

To be responsible for equality in service delivery and employment within the service and to work within relevant legislation carrying out Equality Assessments where necessary

To attend emergency planning training, be familiar with the Boston Borough Council Emergency Plan and your role during an emergency incident. This may involve receiving notification of emergency situations out of hours and to respond positively to these calls where available.

This page is intentionally left blank

CMT JOB DESCRIPTION

JOB INFORMATION			
Job Title	Deputy Chief Executive & Monitoring Officer	Post number	
Service Area	Chief Executive's		
Grade	DCX		
Hours	37		
MAIN RESPONSIBILITIES			
- To be an active part of the Councils Corporate Management Team, prioritising & implementing the relevant strategies across the Council - To lead the functions in the relevant service areas and to develop a strategic approach to the governance of the Council. - To promote innovation, efficiency and customer focus in service delivery. - To be the Monitoring Officer & Solicitor to the Council			
JOB REQUIREMENTS			
Qualifications & experience	Technical knowledge/skills	Behavioural skills	
- A track record of developing & implementing continuous improvement and improved outcomes in service delivery - A track record of delivering improved value for money - Experience of leading and delivering significant change and business improvement initiatives, including people & cultural change - Experience of developing strategies & policies in relevant service area - Experience of leading & managing service delivery across a multi-disciplinary area - Professional leadership experience in a relevant area (Finance or Revenues & Benefits.) - Experience of programme & project management - Evidence of effective budget management and delivering cost reductions whilst improving services - Evidence of internal & external partnership working – establishing trust & credibility - Proven ability to work in a political environment and establish effective working relationships with members.	- Effective financial planning & budget management skills - Sound knowledge of local government law, policy & procedures - Knowledge of risk management methodology & techniques - Ability to manage high performance through people - Accomplished analytical and decision making skills - Excellent verbal & written communication skills including report writing - Ability to translate national & local policy direction and strategic objectives into practical local plans & action - Sound knowledge of business process re-engineering	- Ethical behaviour - Instils pride - Gains respect & trust - Champions equality & fairness - Sets a vision - Drives high standards - Challenges assumptions - Takes managed risks - Takes up staff ideas - Creative, seeks out best practice, nurtures & develops independent thinkers - Committed to learning & development - Mentors & coaches - Provides feedback - Supportive & empathetic - Builds effective relationships & resolves conflict - Manages conflicting priorities effectively, with resilience to keep management performance on track during periods of uncertainty & change. Exhibit the Nolan principles: Selfless Integrity Objectivity Accountability Openness Honesty Leadership	
Main duties & responsibilities			
- To be a member of the Council's Corporate Management Team with collective responsibility for the managerial leadership of the Council - To undertake the statutory role of Monitoring Officer and provide advice and guidance to officers and members as necessary. - To contribute to corporate programme boards which develop strategy and policy, implement programmes and projects and monitor performance - To ensure Members of the Council are supported in their leadership & community roles - To contribute to developing the Council's Corporate Plan & other strategies. Specifically: Constitution & related strategies Local Plan - To be accountable to the Chief Executive, developing and supporting operational managers both within and outside			

DEPUTY CHIEF EXECUTIVE/MONITORING OFFICER JOB DESCRIPTION

2018

the service and ensuring objectives and targets are delivered - To ensure that a system of continuous review and improvement is embedded within the Service so that 'traditional thinking' is challenged and innovation pursued. - To be accountable for those budgets related to the Service, ensuring compliance with the Council's Constitution and Standing Orders and that the Council receives value for money from its expenditure.		
Candidate screening GCSX check required – includes disclosure Scotland – Basic Disclosure	Rehabilitation of Offenders Act applies: NO	Disclosure & Barring Service check required: NO
Politically Restricted Post	YES	
Managers responsibilities		
To ensure at all times that a corporate view is adopted and that complaints (both internal & external) are dealt with promptly and effectively.		
To prepare and review annual service delivery plans in support of the overall corporate plan, annual learning & development plan, internal improvement plans and other requirements e.g. legislation.		
To be responsible for accurate monthly or quarterly reporting on progress against service delivery objectives and key performance indicators and attending Cabinet and scrutiny as necessary to present.		
To prepare and present detailed and complex reports to Cabinet, Committees, and Working Groups as necessary.		
To be responsible for sound and effective governance at the Council		
To manage and be accountable for all matters relating to the workforce (including volunteers) under their control in line with the Council's policies & procedures including: a) effective induction including attendance by all employees at corporate induction training b) providing direction for teams and individuals c) recruitment & selection including safer recruitment where applicable d) skills & knowledge development to be competent in their job roles e) attendance management • completing all required documentation • holding return to work interviews • regularly reviewing sickness levels • holding absence reviews • managing long term sickness through regular HR contact/ liaison f) discipline g) grievance h) appraisal & performance management by setting individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives i) employee relations j) communication & listening (via monthly team meetings and regular informal methods) k) workforce planning (See Workforce Planning Guidance for Managers HRP010 for further information) l) safeguarding children and vulnerable adults - m)		
To set individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives		
Ensure delivery of a safe working environment by ensuring that health & safety legislation and Council procedures are implemented and adhered to; employees are involved in health & safety management including attending necessary training; risks are assessed, control measures are implemented and information is effectively communicated to teams and individuals;		

reports include details of high level risks where relevant
To ensure that strategic & operational risks are considered and that appropriate actions and/or reporting are put into place to manage these.
To effectively brief senior members on relevant matters as appropriate.
To be responsible for equality in service delivery and employment within the service and to work within relevant legislation carrying out Equality Assessments where necessary
To attend emergency planning training, be familiar with the Boston Borough Council Emergency Plan and your role during an emergency incident. This may involve receiving notification of emergency situations out of hours and to respond positively to these calls where available.

This page is intentionally left blank

HEAD OF SERVICE JOB DESCRIPTION

JOB INFORMATION		
Job Title	Chief Finance Officer	
Service Area	Financial Services	
Grade	HoS	
Hours	37	
ACCOUNTABILITIES		
JOB PURPOSE		
- To be an active part of the Councils Corporate Management Team, prioritising & implementing the relevant strategies across the Council - To lead the functions in the service area and to develop a strategic approach to financial management of the Council. - To promote innovation, efficiency and customer focus in service delivery.		
JOB REQUIREMENTS		
Qualifications & experience	Technical knowledge/skills	Behavioural skills
- A track record of developing & implementing continuous improvement and improved outcomes in service delivery - A track record of delivering improved value for money - Experience of leading and delivering significant change and business improvement initiatives, including people & cultural change - Experience of developing strategies & policies in relevant service area - Experience of leading & managing service delivery across a multi-disciplinary area - Professional leadership experience in a relevant area (Finance or Revenues & Benefits.) - Experience of programme & project management - Evidence of effective budget management and delivering cost reductions whilst improving services - Evidence of internal & external partnership working – establishing trust & credibility - Proven ability to work in a political environment and establish effective working relationships with members.	- Effective financial planning & budget management skills - Knowledge of risk management methodology & techniques - Ability to manage high performance through people - Accomplished analytical and decision making skills - Excellent verbal & written communication skills including report writing - Ability to translate national & local policy direction and strategic objectives into practical local plans & action - Sound knowledge of business process re-engineering	- Ethical behaviour - Instils pride - Gains respect & trust - Champions equality & fairness - Sets a vision - Drives high standards - Challenges assumptions - Takes managed risks - Takes up staff ideas - Creative, seeks out best practice, nurtures & develops independent thinkers - Committed to learning & development - Mentors & coaches - Provides feedback - Supportive & empathetic - Builds effective relationships & resolves conflict - Manages conflicting priorities effectively, with resilience to keep management performance on track during periods of uncertainty & change. Exhibit the Nolan principles: Selfless Integrity Objectivity Accountability Openness Honesty Leadership
Main duties & responsibilities		
- To be a member of the Council's Corporate Management Team with collective responsibility for the managerial leadership of the Council - To be the Councils Section 151 Officer - To contribute to corporate programme boards which develop strategy and policy, implement programmes and projects and monitor performance - To ensure Members of the Council are supported in their leadership & community roles - To contribute to developing the Council's Corporate Plan & other strategies. Specifically: Medium Term Financial Strategy - To be accountable to the Chief Executive, developing and supporting operational managers both within and outside the service and ensuring objectives and targets are delivered - To ensure that a system of continuous review and improvement is embedded within the Service so that 'traditional		

CHIEF FINANCE OFFICER JOB DESCRIPTION

2019

thinking' is challenged and innovation pursued. To be accountable for those budgets related to the Service, ensuring compliance with the Council's Constitution and Standing Orders and that the Council receives value for money from its expenditure.		
Candidate screening GCSX check required – includes disclosure Scotland – Basic Disclosure	Rehabilitation of Offenders Act applies: NO	Disclosure & Barring Service check required: NO
Politically Restricted Post	YES	
Managers responsibilities		
To ensure at all times that a corporate view is adopted and that complaints (both internal & external) are dealt with promptly and effectively.		
To prepare and review annual service delivery plans in support of the overall corporate plan, annual learning & development plan, internal improvement plans and other requirements e.g. legislation.		
To be responsible for accurate monthly or quarterly reporting on progress against service delivery objectives and key performance indicators and for reporting this information to CMT & portfolio holders		
To prepare and present detailed and complex reports to Cabinet, Committees, and Working Groups as necessary.		
To undertake and be accountable for budgetary management within the activities controlled and balance budgets in accordance with Contract Procedure Rules and Financial Regulations.		
To manage and be accountable for all matters relating to the workforce (including volunteers) under their control in line with the Council's policies & procedures including: a) effective induction including attendance by all employees at corporate induction training b) providing direction for teams and individuals c) recruitment & selection including safer recruitment where applicable d) skills & knowledge development to be competent in their job roles e) attendance management • completing all required documentation • holding return to work interviews • regularly reviewing sickness levels • holding absence reviews • managing long term sickness through regular HR contact/ liaison f) discipline g) grievance h) appraisal & performance management by setting individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives i) employee relations j) communication & listening (via monthly team meetings and regular informal methods) k) workforce planning (See Workforce Planning Guidance for Managers HRP010 for further information) l) safeguarding children and vulnerable adults - m)		
To set individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives		
Ensure delivery of a safe working environment by ensuring that health & safety legislation and Council procedures are implemented and adhered to; employees are involved in health & safety management including attending necessary training; risks are assessed, control measures are implemented and information is effectively communicated to teams and individuals; reports include details of high level risks where relevant		

To ensure that strategic & operational risks are considered and that appropriate actions and/or reporting are put into place to manage these.

To effectively brief senior members on relevant matters in conjunction with the relevant CMT member as appropriate.

To be responsible for equality in service delivery and employment within the service and to work within relevant legislation carrying out Equality Assessments where necessary

To attend emergency planning training, be familiar with the Boston Borough Council Emergency Plan and your role during an emergency incident. This may involve receiving notification of emergency situations out of hours and to respond positively to these calls where available.

This page is intentionally left blank

HEAD OF SERVICE JOB DESCRIPTION

JOB INFORMATION		
Job Title	Head of Service	
Grade	HoS	
Hours	37	
ACCOUNTABILITIES		
JOB PURPOSE		
- To be an active part of the Councils Corporate Management Team, prioritising & implementing the relevant strategies across the Council - To lead the functions in the relevant service area and to develop a strategic approach to xxxx - To promote innovation, efficiency and customer focus in service delivery.		
JOB REQUIREMENTS		
Qualifications & experience	Technical knowledge/skills	Behavioural skills
- A track record of developing & implementing continuous improvement and improved outcomes in service delivery - A track record of delivering improved value for money - Experience of leading and delivering significant change and business improvement initiatives, including people & cultural change - Experience of developing strategies & policies in relevant service area - Experience of leading & managing service delivery across a multi-disciplinary area - Professional leadership experience in a relevant area (Planning, Housing, Environmental Health, Finance, HR, Business Improvement etc.) - Experience of programme & project management - Evidence of effective budget management and delivering cost reductions whilst improving services - Evidence of internal & external partnership working – establishing trust & credibility - Proven ability to work in a political environment and establish effective working relationships with members.	- Effective financial planning & budget management skills - Knowledge of risk management methodology & techniques - Ability to manage high performance through people - Accomplished analytical and decision making skills - Excellent verbal & written communication skills including report writing - Ability to translate national & local policy direction and strategic objectives into practical local plans & action - Sound knowledge of business process re-engineering	- Ethical behaviour - Instils pride - Gains respect & trust - Champions equality & fairness - Sets a vision - Drives high standards - Challenges assumptions - Takes managed risks - Takes up staff ideas - Creative, seeks out best practice, nurtures & develops independent thinkers - Committed to learning & development - Mentors & coaches - Provides feedback - Supportive & empathetic - Builds effective relationships & resolves conflict - Manages conflicting priorities effectively, with resilience to keep management performance on track during periods of uncertainty & change. Exhibit the Nolan principles: Selfless Integrity Objectivity Accountability Openness Honesty Leadership
Main duties & responsibilities		
- To be a member of the Council's Corporate Management Team with collective responsibility for the managerial leadership of the Council - To contribute to corporate programme boards which develop strategy and policy, implement programmes and projects and monitor performance - To ensure Members of the Council are supported in their leadership & community roles - To contribute to developing the Council's Corporate Plan & other strategies. Specifically: - To be accountable to the Deputy Chief Executive/Chief Executive, developing and supporting operational managers both within and outside the service and ensuring objectives and targets are delivered - To ensure that a system of continuous review and improvement is embedded within the Service so that 'traditional		

thinking' is challenged and innovation pursued. • To be accountable for those budgets related to the Service, ensuring compliance with the Council's Constitution and Standing Orders and that the Council receives value for money from its expenditure.		
Candidate screening	Rehabilitation of Offenders Act applies: NO	Disclosure & Barring Service check required: NO
Politically Restricted Post	YES	
Managers responsibilities		
To ensure at all times that a corporate view is adopted and that complaints (both internal & external) are dealt with promptly and effectively.		
To prepare and review annual service delivery plans in support of the overall corporate plan, annual learning & development plan, internal improvement plans and other requirements e.g. legislation.		
To be responsible for accurate monthly or quarterly reporting on progress against service delivery objectives and key performance indicators and for reporting this information to CMT & portfolio holders		
To prepare and present detailed and complex reports to Cabinet, Committees, and Working Groups as necessary.		
To undertake and be accountable for budgetary management within the activities controlled and balance budgets in accordance with Contract Procedure Rules and Financial Regulations.		
To manage and be accountable for all matters relating to the workforce (including volunteers) under their control in line with the Council's policies & procedures including: a) effective induction including attendance by all employees at corporate induction training b) providing direction for teams and individuals c) recruitment & selection including safer recruitment where applicable d) skills & knowledge development to be competent in their job roles e) attendance management • completing all required documentation • holding return to work interviews • regularly reviewing sickness levels • holding absence reviews • managing long term sickness through regular HR contact/ liaison f) discipline g) grievance h) appraisal & performance management by setting individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives i) employee relations j) communication & listening (via monthly team meetings and regular informal methods) k) workforce planning (See Workforce Planning Guidance for Managers HRP010 for further information) l) safeguarding children and vulnerable adults - m)		
To set individual objectives and targets through the Council's 'my performance' process for all team members in line with the Service Delivery Plan and regularly review the achievement of these objectives		
Ensure delivery of a safe working environment by ensuring that health & safety legislation and Council procedures are implemented and adhered to; employees are involved in health & safety management including attending necessary training; risks are assessed, control measures are implemented and information is effectively communicated to teams and individuals; reports include details of high level risks where relevant		

HEAD OF SERVICE JOB DESCRIPTION

2019

To ensure that strategic & operational risks are considered and that appropriate actions and/or reporting are put into place to manage these.

To effectively brief senior members on relevant matters in conjunction with the relevant CMT member as appropriate.

To be responsible for equality in service delivery and employment within the service and to work within relevant legislation carrying out Equality Assessments where necessary

To attend emergency planning training, be familiar with the Boston Borough Council Emergency Plan and your role during an emergency incident. This may involve receiving notification of emergency situations out of hours and to respond positively to these calls where available.

This page is intentionally left blank

PART 3

RESPONSIBILITY FOR FUNCTIONS

PART 3

Responsibility for Functions

Contents

Section	Subject	Page No.
1.	Responsibility for Local Choice Functions	3
2.	Responsibility for Council and Non-Executive Functions	5
3.	Responsibility for Executive Functions	7
4.	Overview and Scrutiny Role and Terms of Reference	8
5.	Regulatory Committees – Planning Committee	11
	Licensing/Regulatory and Appeals Committee	11
6.	Audit and Governance Committee Terms of Reference –	25
	Appendix 1 – Terms of Reference for a Standards Sub-Committee of the Audit and Governance Committee	30
	Appendix 2 – Arrangements for dealing with standards allegations under the Localism Act 2011	32
7.	Advisory Committees, Panels and Working Groups – Independent Remuneration Panel International Links Committee Chief Officer Employment Panel Statutory Officers Employment Advisory Panel	43
8.	Boston Town Area Committee	45
9.	South East Lincolnshire Joint Strategic Planning Committee	49
10.	Chief Officer Panels	60
11.	Joint Strategy Board	65
12.	Appendix – Scheme of Delegation to Officers	67

RESPONSIBILITY FOR FUNCTIONS

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulation 2000 sets out the “local choice functions”. These are the functions where the Council has a choice as to whether they should be allocated to the Cabinet, to the Council or to regulatory committees. The following table shows how the Council has decided to allocate these functions and which of the above decision-making bodies is responsible for the function in question. Section 2 goes on to describe the additional roles and responsibilities of those bodies.

LOCAL CHOICE FUNCTION	DECISION MAKING BODY
1. Any function under a Local Act	The Leader
2. Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This excludes matters where statutory arrangements exist.)	Licensing/Regulatory and Appeals Committee
3. – 6. Do not apply.	
7. Arrangements under section 20 of The Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority.	The Council
8. The making of appointments to the Lincolnshire Police and Crime Panel	The Council
9. Conducting service reviews (formerly best value reviews)	The exercise of this function to be determined by the Leader, subject at all times to the involvement of the Overview and Scrutiny Committees as shown in Article 6 of the Constitution.
10. – 15. Any function relating to contaminated land and statutory nuisances.	Regulatory functions will be dealt with by the Planning Committee with delegation to officers. Policy matters to be determined by the Leader.
16. & 17. Planning and other information notices	To be determined by the Leader
18. Does not apply	

19. Appointments to outside bodies	The Council for where the appointment relates to Council functions. The Leader where the appointment relates to an executive function.
20. The making of agreements with other local authorities for placing of staff at the disposal of those other authorities.	The Council
21. Does not apply.	

2. RESPONSIBILITY FOR COUNCIL AND NON-EXECUTIVE FUNCTIONS

2.1 (“Council Functions” are the statutory functions of the Borough Council which may not be exercised by a Leader and Cabinet Executive.)

Except where listed below or in the Scheme of Delegation to Officers (Non-executive functions) the full Council retains responsibility for the exercise of the statutory functions set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended by the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001 (so far as the Borough Council has any responsibilities for them.)

Committee	Membership	Functions	Delegation of Functions
Planning Committee	Appointed Members of the Council	Planning and Enforcement Functions relating to town and country planning and development control as specified in Section A Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, and the functions relating to extinguishment of public rights of way, stopping up or diversion of footpaths, protection of important hedgerows and preservation of trees at Section 1 of that Schedule.	Planning Committee in accordance with the terms of reference set out in Article 8.1 of the Constitution Head of Service with responsibility for Planning in accordance with the annexed Scheme of Delegation and Appeals.
Licensing/Regulatory and Appeals Committee	Appointed Members of the Council	Licensing and Regulation Functions as specified in Section B Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. (So far as the Borough Council has responsibility for them.) Health and Safety at Work Functions as specified in Section Constitution Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Appeals. To hear and	Licensing/Regulatory and Appeals Committee in accordance with the terms of reference set out in Article 8.2 of the Constitution. Head of Service with responsibility for Regulatory Services in accordance with the annexed Scheme of Delegation.

		determine appeals against decisions made by or on behalf of the authority where there is a right of appeal to a Council committee. (Note: Responsibility for health and safety for the local authority as an employer must be the responsibility of the Cabinet.)	

- 2.2 Some functions can only be carried out by the Council. These functions are set out in Article 4.2 of the Constitution together with other important non-executive functions that have not been delegated.

3 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

3.1 Decision taking

The Cabinet will be responsible for the implementation of decisions within the policy framework set by the Council in relation to all of the Council's functions which are not the responsibility of any other part of the Council whether by law or under this Constitution.

The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by

- (i) the Executive; or
- (ii) by another member of the Executive; or
- (iii) by a committee of the Executive; or
- (iv) by an officer of the Council

and paragraphs 3.2 and 3.3 below will accordingly be of no effect

3.2 Cabinet Portfolios

The detailed remits of the Cabinet are set out in Part 1 of the Constitution. Any items not within the scope of the individual portfolios are the responsibility of the Leader of the Council.

3.3 Delegation to Officers

A Scheme of Delegation to Officers, approved by the Council, is outlined in the attached Appendix. It sets out the executive decisions that officers of the Council have power to take.

4. OVERVIEW AND SCRUTINY ROLE

- 4.1 There shall be two permanent Overview and Scrutiny Committees (Corporate and Community Committee and Environment and Performance Committee) to scrutinise the decisions and performance of the Cabinet and the effect of existing policies.
- 4.2 The Overview and Scrutiny Committees shall not have delegated powers.
- 4.3 The terms of reference for the Overview and Scrutiny Committees are set out below:-

4.4 Terms of Reference

1. To carry out overview and scrutiny functions on behalf of the Council.
2. To appoint as required such Task and Finish Groups as it considers appropriate to assist with fulfilling those overview and scrutiny functions.
3. To prepare, adjust and update from time to time the annual overview and scrutiny work programme within its area of responsibility and to report details as appropriate to the Council.
4. To put in place a system to ensure that all overview and scrutiny work is carried out efficiently including referrals from Overview and Scrutiny Committees to the Cabinet, either by way of report or for reconsideration.
5. To review service plans and policy implementation and raise policy issues with the Cabinet and/or Council, whichever is appropriate.
6. To carry out performance management responsibilities for every service including receiving information on the outcome of service delivery plans.
7. To make recommendations to either the Cabinet and/or Council regarding the development of future policies and strategies.
8. To scrutinise decisions taken by the Cabinet, but not yet implemented, which fall within the remit of the committee, by means of the Call In procedure.
9. To report and recommend to Council or the Cabinet, on the discharge of functions or matters that affect the Council's area or its residents.
10. In association with the Cabinet, and subject to any timescales, to respond to Government or external consultations concerning issues within the remit of the Committee.
11. To consider matters raised under Councillor Call for Action procedures (CCfA) in terms of a local government matter (as contained in S119 of the Local Government and Public Involvement in Health Act 2007 and S21A of the Local Government Act 2000).
12. To consider matters raised under Councillor Call for Action (CCfA) in terms of local crime and disorder issues (as contained in S19 of the Police and

Justice Act 2006) which will be considered by the Environment and Performance Committee.

4.5 Proceedings of the Overview and Scrutiny Committees

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

REMITTS OF THE OVERVIEW AND SCRUTINY COMMITTEES

Overview and Scrutiny Committee - Corporate and Community (11 Members)

Corporate Priority 2 – People

We must support and protect all vulnerable people within our borough.

Our key aims:

- Protect the public
- Support the most vulnerable in our borough
- Provide affordable homes
- Maintain our excellent welfare support performance
- To play a supporting role in meeting the wider health & wellbeing needs of our community by continuing to work closely with our partners.

To deliver this priority we will:

- Provide quality regulatory services to protect them from harm
- Provide quality welfare support to those who need it the most in a timely manner
- Work with all of our partners to increase the supply and range of affordable and flexible housing products available to our residents
- Continue to promote, support and enforce housing standards throughout the housing market, especially within the private rented sector
- To help and support our residents who have housing needs that they cannot meet themselves
- Working to explore all funding opportunities available to meet the range of housing needs in our borough

Corporate Priority 4 – Public Service

The council has a key role to play in our local area to provide essential services and operate within the current financial context.

Our key aims:

- Continue to champion devolution of powers from central Government to support development in our area and to get a fair deal for rural councils
- (continued) Transformation of our council to meet the challenge of reducing resources in an area of significant population growth
- Demonstrate excellent governance

- Ensure financial stability by operating commercially where practicable but retaining our public values
- To protect essential public services in Boston

To deliver this priority we will

- Seek to make the best use of our assets
- Seek opportunities to maximise income to support key council services
- Share resources with partners where possible
- Work with our Greater Lincolnshire partners to progress the devolution deal
- Continue to lobby for fair funding for rural councils
- Work with partners to lobby for essential public services being maintained in our locality.

Overview and Scrutiny Committee – Environment and Performance (11 Members)

Corporate Priority 1 – Prosperity

We need a strong economy which is growing which will generate more and better job opportunities and will attract people and businesses to the area.

Our key aims:

- Promote and support inward investment into the borough
- Support business development and growth for new and existing businesses
- Infrastructure development
- Support housing growth
- Develop our tourism, heritage and cultural opportunities

To deliver this priority we will:

To deliver this priority we will:

- Provide support to businesses
- Support business growth and work with funding organisations to facilitate this
- Have the South East Lincolnshire Local Plan adopted during 2017 to ensure we have a five-year housing land supply, allocate land for industry and pave the way for ongoing development of a distributor road for Boston
- Continue to operate flexible planning policies to support development in the town centre and the wider borough
- Work in partnership with Lincolnshire County Council, Environment Agency, Internal Drainage Boards and others to seek to develop our considerable waterways opportunities and in particular delivery of the Boston Barrier
- Support delivery of more homes
- Work in partnership to develop Boston as a tourist destination
- Work in partnership to secure funding to preserve and develop our rich heritage

Corporate Priority 4 – Public Service

The council has a key role to play in our local area to provide essential services and operate within the current financial context.

Our key aims:

- Continue to champion devolution of powers from central Government to support development in our area and to get a fair deal for rural councils
- (continued) Transformation of our council to meet the challenge of reducing resources in an area of significant population growth
- Demonstrate excellent governance
- Ensure financial stability by operating commercially where practicable but retaining our public values
- To protect essential public services in Boston

To deliver this priority we will

- Seek to make the best use of our assets
- Seek opportunities to maximise income to support key council services
- Share resources with partners where possible
- Work with our Greater Lincolnshire partners to progress the devolution deal
- Continue to lobby for fair funding for rural councils
- Work with partners to lobby for essential public services being maintained in our locality.

5. Regulatory Committees

5.1 Planning Committee (13 Members)

Terms of Reference

The Committee has delegated authority to:-

- (i) Exercise and perform the powers and duties of the Council as a Local Planning Authority under the Town and Country Planning Acts and associated Orders and Regulations, and the Building Act 1984 and other allied legislation* in relation to the following functions:-

Development Control – Applications for planning permission, listed building consent, conservation area consent, advertisement control and other applications and notifications covered by the Planning Acts.

** Including functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) as amended*

- (ii) Consider all matters relating to the making and administration of Tree Preservation Orders.

- (iii) Exercise the duties and powers of the Council in respect of Building Control where these have not been delegated to professional officers.
- (iv) Exercise the duties and powers of the Council in respect of the control of pollution, statutory nuisance and other environmental protection functions where these have not been delegated to professional officers.

Notes:

- The Committee must be politically balanced.
- The Committee will be briefed and/or consulted on changes to planning policies, budgets, procedures and legislation as may be considered prudent by the Head of Planning.
- The Local Development Framework (LDF) and other Planning functions are reserved to the Cabinet for decision. The LDF forms part of the Council's policy framework as described in Article 4. The Cabinet is responsible for formulating the Local Development Scheme for approval by full Council.

It should also be noted that certain residual planning functions are the responsibility of the Cabinet and not of the Regulatory Committee. These Cabinet functions include the following:-

- ◆ Preparation of supplementary planning guidance;
- ◆ Designation of conservation areas, areas of archaeological interest and nature reserves;
- ◆ Removal of permitted development rights through Article 4 Directions; and
- ◆ Making compulsory purchase orders.

5.2 Licensing/Regulatory & Appeals Committee (13 Members)

Terms of Reference

The Council has delegated authority to the Licensing/Regulatory & Appeals Committee as follows:-

(a) In relation to licensing matters:-

- To consider applications for licenses and registrations covering persons, premises, vehicles, businesses, activities and gambling where an officer chooses not to exercise delegated powers.
- To determine whether to revoke, suspend or refuse to renew any license or registration.

(b) To determine appeals for National Non-Domestic Rates Hardship Relief and Discretionary Rate Relief and to determine appeals under S13A Local Government Finance Act 1992 for a reduction in the amount of Council Tax payable.

- (c) To consider high hedge complaints.
- (d) To monitor and review policy relating to licensing matters and make recommendations to Cabinet or Council as appropriate in relation to any proposed changes.
- (e) To determine appeals for Discretionary Housing Payments under the Discretionary Financial Assistance Regulations 2001.

5.3 Licensing Sub Committee

Membership

3 Members*

Terms of Reference

To consider and determine:

1. Applications under the following provisions of the Licensing Act 2003:

	Provision under which a hearing is held	Circumstances under which a hearing is held
a.	Section 18(3)(a) (determination of application for premises licence)	If representations made
b.	Section 31(3)(a) (determination of application for a provisional statement)	If representations made
c.	Section 35(3)(a) (determination of application to vary premises licence)	If representations made
d.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor)	If police representation made
e.	Section 44(5)(a) (determination of application for transfer of premises licences)	If police representation made
g.	Section 48(3)(a) (cancellation of interim authority notice following police objection)	All cases
h.	Section 52(2) (determination of application for review of premises licence)	All cases
i.	Section 72(3)(a) (determination of application for club premises certificate)	If representations made

	Provision under which a hearing is held	Circumstances under which a hearing is held
j.	Section 85(3) (determination of application to vary club premises certificate)	If representations made
k.	Section 88(2) (determination of application for review of club premises certificate)	All cases
l.	Section 105(2)(a) (counter notice following police or environmental health objection to temporary event notice)	All cases
m.	Section 120(7)(a) (determination of application for grant of personal licence)	If police representation made
n.	Section 121(6)(a) (determination of application for the renewal of personal licence)	If police representation made
o.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence)	All cases
p.	Section 167(5)(a) (review of premises licence following closure order)	All cases
q.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)	If police representation made
r.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	If police representation made
s.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	If police representation made
t.	Section 25A (Determination of application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	If police representation made

	Provision under which a hearing is held	Circumstances under which a hearing is held
u.	Section 41D (Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises)	If police representation made
v.	Section 52A (Determination of application for a review: supply of alcohol from community premises)	If police representation made
w.	Section 53A (Determination of application for expedited reviews)	If police representation made
x.	Section 53B (Determination of application for interim steps)	If police representation made
y.	Section 53C (Determination of application for a review of premises licence following review notice)	If police representation made

2. Applications under the following provisions of the Gambling Act 2005:

	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
a.	Application for Premises Licence (Section 162)	If representations made and not withdrawn
b.	Application for variation to a Premises Licence (Section 187)	If representations made and not withdrawn
c.	Application for transfer of a Premises Licence (Section 188)	If representations received from the Commission
d.	Application for a provisional statement (Section 204)	If representations made and not withdrawn
e.	Review of a Premises Licence (Section 201)	All cases
f.	Application for Club Gaming Permit or Club Machine Permit (Sections 271 – 274 and Schedule 12)	If objections have been made and not withdrawn; or if intention to refuse the application

	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
g.	Cancellation of Club Gaming Permit or Club Machine Permit (Sections 271 – 274) and Schedule 12)	All cases
h.	Decision to give a counter notice to a Temporary Use Notice (Section 224)	All cases
i.	Application for licensed premises Gaming Machine Permit (Section 283)	If intention to refuse the application, either wholly or in part
j.	Cancellation or variation of a licensed premises Gaming Machine Permit (Section 284)	All cases
k.	Application for a Family Entertainment Centre Gaming Machine Permit (Section 247)	If intention to refuse the application
l.	Application for a Prize Gaming Permit (Section 289)	If intention to refuse the application
m.	Consideration of objections to a Temporary Use Notice and decision whether to give a counter-notice (Section 224)	If notices of objection have been given and not withdrawn (unless all parties agree that a hearing is unnecessary)

3. Where a settlement offer is received during appeal proceedings in the Magistrates Court less than 5 clear days prior to the first day of the appeal hearing, the Chairman of the Licensing Sub-Committee that determined the application or review to have delegated powers to accept/refuse offers of settlement in consultation with the Principal Licensing and Land Charges Officer and the Solicitor to the Council. In all other cases the Licensing Sub-Committee that determined the application or review to have delegated powers to accept/refuse the same, in consultation with the Principal Licensing and Land Charges Officer and Solicitor to the Council.

Notes:

* Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Licensing Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.

In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Licensing Committee in relation thereto
Provisions under which hearings under the Licensing Act 2003 may be heard and the period of time within which hearings must be commenced is set out at Appendix A.

A Procedure Note for the conduct of meetings of the Sub-Committee for hearings under the Licensing Act 2003 is set out in Appendix B.

Appendix A

Provisions under which hearings may be heard and the period of time within which hearings must be commenced

	Provision under which hearing is held.	Period of time within which hearing must be commenced.
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.
3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).

	Provision under which hearing is held.	Period of time within which hearing must be commenced.
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).
9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).
12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).
13.	Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order).	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.

	Provision under which hearing is held.	Period of time within which hearing must be commenced.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application of conversion of existing club certificate).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.
19.	Section 25A (Application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
20.	Section 41D (Application by community premises to disapply the mandatory conditions for alcohol on a premises)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
21.	Section 52A (Review: supply of alcohol from community premises)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under Section 51(3)(c).
22.*	Section 53A (Determination of application for expedited reviews)	48 hours from the time of the receipt of the application.
23.*	Section 53B (Determination of application for interim steps)	48 hours from the time of the receipt of the application.
24.	Section 53C (Determination of application for a review of premises licence following review notice)	28 days beginning with the day after the end of the period during which an application for review is received.

Appendix B

Procedure Note for Licensing Hearings

1. Prior to the meeting of the Committee, the Committee will have read and familiarised themselves with the Officer's report and documents referred to in it.
2. The hearing will take place in public, subject to a discretion to exclude the public and/or parties where the public interest in doing so outweighs the public interest in the hearing taking place in public. The Committee may also exclude anyone behaving disruptively.
3. The parties are entitled to be assisted or represented by any person, whether or not legally qualified. A party is entitled to withdraw any of their representations orally at the hearing or at least 24 hours before the day or the first day of the hearing.
4. The Committee may extend any time limit in the Regulations for a specified period where it considers this to be necessary in the public interest, but must state the period of the extension and the reason for it. For example, the Committee may extend the time for making a request to call a witness (see paragraph 16 below).
5. Where a party has notified the authority that he does not intend to attend, the Committee will proceed with the hearing in his absence. Where he has not so notified the authority but does not attend, the Committee may adjourn the hearing to a specified date where it considers it necessary in the public interest to do so. Otherwise, it will proceed with the hearing.
6. Before proceeding in the absence of a party who has not indicated that they do not wish to attend, the Licensing Officer should attempt to ascertain the reason for that party's non-attendance.
7. The Committee may adjourn the hearing to a specified, or extra, date where it considers this to be necessary for the determination of the case. There are limitations on the ability of the Committee to adjourn the case beyond the time limits for determination during the transitional period and on reviews following closure orders by the police.
8. At the outset of the meeting, a Chairman will be elected and any personal and/or prejudicial interests declared.
9. Except where the Regulations make specific requirements, the procedure will be in the discretion of the Committee.
10. At the beginning of the hearing, the Committee will explain to the parties the procedure it proposes to follow.

11. The Chairman will indicate that all the papers before the Committee have been read and that the Committee is familiar with the issues. He will ask the parties to avoid repetition.
12. The Chairman will indicate the order of presentation.
13. If there are a number of objectors present, the Chairman may request that a spokesperson be appointed. He will make it clear that any party who wishes to speak will be able to do so, and that the appointment of a spokesperson does not mean that the objections of any interested party will be given less weight.
14. The Chairman may also indicate how the Committee intends to deal with conditions proposed by the parties or by the Committee itself. He may ask the parties to attempt to agree a schedule of conditions for use if the Committee is minded to grant the application. This will not mean that the Committee has formed any view of the merits. It will only come to its decision at the end.
15. A party is entitled to be represented or assisted by another person, whether or not that person is legally qualified.
16. If a party wishes a person (other than himself or his representative) to appear at the hearing he must have made a request to do so prior to the hearing within the times prescribed in Reg. 8. The request must name the person and give a brief description of the point(s) on which that person may be able to assist. In such a case, the Committee will determine the application for permission at the outset of the hearing. In determining that request, the authority will consider the representations of all parties upon the matter and may consider the relevance of the proposed evidence, the assistance it will in fact offer to the Committee and the prejudice to the parties, if the evidence is admitted or excluded.
17. Each of the parties has a right to:
 - (a) address the Committee;
 - (b) give clarification of any point, where such clarification has been sought by the Council in its notice of hearing;
 - (c) question any other party, but only where this is expressly permitted by the Committee (see para 21 below).
18. The Committee must allow an equal maximum time for the parties to exercise their rights as set out in para 17 above.
19. The Committee will set the time of the hearing at the outset, having regard to its view of the length reasonably required for the hearing. It may hear the parties briefly before setting the maximum time. It may extend the time where circumstances require.
20. The hearing is to take the form of a discussion led by the Committee. The Chairman will ensure that within the discussions, all parties are given an opportunity to state their case as set out in their written application/representations and to meet the case of opposing parties.

21. Cross-examination will not be permitted unless the Committee considers that it is required for it to give proper consideration to the case. Any application to cross-examine will be heard and dealt with at the hearing.
22. The Committee may consider cross-examination to be required, for example, where there is a genuine issue of fact, which can only be resolved fairly through cross-examination.
23. The Committee may question any party or other person(s) appearing.
24. The Committee may take into account documentary or other information provided by a party before the hearing. Information produced at the hearing may only be taken into account with the consent of all other parties. The parties are therefore strongly recommended to exchange documentary evidence and brief summaries of any proposed witness evidence at least 5 days before the hearing, otherwise they may be restricted in the information they can put before the committee. Any material exchanged should also be given to the licensing authority at the same time.
25. The Committee must disregard any information given which is not relevant to the application, representations or notice of the party giving the information. The Committee must also disregard any information which is not relevant to the promotion of the licensing objectives.
26. In certain circumstances, the Committee is required by law to make its determination at the conclusion of the hearing. This includes certain applications made during the transitional period, counter-notices following police objections to temporary events notices, and reviews of premises licences following closure orders. Otherwise the Committee is required to determine the application within five working days of the day or the last day on which the hearing was held.
27. The Committee will give reasons for its decision and will confirm the decision in writing to the parties.

Appendix C

Summary Review Procedures

On receipt of an application from the Police for a summary review of the premises licence the Licensing Authority must:

- i. within 48 hours of the time of its receipt, consider whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
- ii. within 28 days after the day of its receipt, review that licence.

In calculating the 48 hours any time that is not on a working day is to be disregarded.

The Interim Steps Pending Review

The interim steps that the licensing authority must consider taking are as follows:

- i. The modification of the conditions of the premises licence (i.e. the alteration, omission or addition of or to the conditions);
- ii. The exclusion of the sale of alcohol by retail from the scope of the licence;
- iii. The removal of the Designated Premises Supervisor (DPS);
- iv. The suspension of the licence.

Where the licensing authority takes one or more of the steps above that decision takes effect immediately or as soon after as the licensing authority directs. Notice must be given immediately to the Premises licence holder and the Chief Officer of Police.

The Premises licence holder may make representations about the interim steps and should this occur a hearing must be held within 48 hours of receipt to consider those representations. Once again the 48 hours are determined by working days only. Advance notice of the hearing must be given to the Premises Licence holder and the Chief Officer of Police.

At the hearing the licensing authority must have regard to the certificate from the Police that accompanied the application, any representations by the Police and the representations of the Premises Licence holder.

The subsequent full review hearing is to be conducted in accordance with the review provisions specified in section 51 of the Licensing Act 2003.

Procedure for the Licensing Sub Committee.

The Principal Licensing and Land Charges Officer or their representative will advise legal services and democratic services of the receipt of the application and arrangements made for 3 Members to be available within 48 hours to sit as a Sub Committee.

If Members are unable to meet in person then a conference call will be arranged for the purposes of holding the Interim Hearing.

At the hearing a report will be given to Members by the Principal Licensing and Land Charges Officer or their representative advising them of the application and the interim steps will be considered. The meeting shall be attended by the 3 members of the Sub Committee, legal services, democratic services and the Principal Licensing and Land Charges Officer or representative. Any decision made shall be relayed to the Premises Licence holder and the Chief Officer of Police, both verbally and in writing by the Licensing section that same day.

A full review hearing shall be arranged which must be held no later than 28 days after the receipt of the certificate from the Police.

If representations are received from the Premises Licence holder as a result of the interim steps the Sub Committee will be reconvened within 48 hours of receipt to deal with these representations. The Premises Licence holder and Chief Officer of Police will be notified of the hearing and invited to attend. A verbal report will again be given by the Principal Licensing and Land Charges Officer or their representative.

Members must then consider whether the interim steps are necessary for the promotion of the licensing objectives and determine whether to withdraw or modify the interim steps.

Members must have regard to the certificate submitted by the Police, any representations made by the Police and the representations made by the Premises Licence holder. Any decision shall be relayed to the Premises Licence holder and the Chief Officer of Police, both verbally and in writing by the Licensing section that same day.

At the full review hearing the normal procedure for dealing with reviews shall be followed. A fresh Sub Committee shall be formed to deal with the full review and shall exclude those 3 Members who made the initial interim decision(s).

5.4 Regulatory and Appeals Sub Committee

Membership

3, drawn from the Regulatory and Appeals Committee

Terms of Reference

1. To consider decisions to grant, renew, suspend or revoke, any licence, permit, consent or registration, or deal with any condition imposed or to be imposed on a licence, permit or registration.
2. To consider appeals for National Non-Domestic Rates Hardship Relief and Discretionary Rate Relief and to determine appeals under Section 13A Local Government Finance Act 1992 for a reduction in the amount of Council Tax payable.
3. To consider High Hedge Complaints.

6. Audit and Governance Committee - (11 Members + 1 Non-elected Member)

Terms of Reference TO BE RATIFIED BY FULL COUNCIL

Statement of purpose

1. Our audit and governance committee is a key component of Boston's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of our audit and governance committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of Boston's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Governance, risk and control

3. To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
4. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
5. To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
6. To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
7. To monitor the effective development and operation of risk management in the council.
8. To monitor progress in addressing risk-related issues reported to the committee.
9. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
10. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
11. To monitor the counter-fraud strategy, actions and resources.
12. To review the governance and assurance arrangements for significant partnerships or collaborations.

13. To maintain an overview of the Council's contract procedure rules and financial regulations and recommend changes to Cabinet or Council
14. To review any issue referred to it by the Council, Cabinet, Scrutiny Committee, Director, Monitoring Officer or the Chief Executive.
15. To consider the Council's compliance with its own and other applicable published standards and controls.
16. To review and develop the Council's Treasury Management and Investment Strategy before recommendation to Council.
17. To monitor compliance and performance of the Council's Treasury Management and Investment Strategy on a regular basis.
18. To meet privately with the Audit Manager/External Auditor where required

Internal audit

19. To approve the internal audit charter.
20. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
21. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
22. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
23. To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
24. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit.
25. To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
 - a) Updates on the work of internal audit including key findings, issues of concern and actions/**recommendations** in hand as a result of internal audit work.
 - b) Regular reports on the results of the Quality Assurance and Improvement Programme.

- c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
26. To consider the head of internal audit's annual report:
- a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
 - b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
27. To consider summaries of specific internal audit reports as requested.
28. To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
29. To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
30. To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
31. To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.
32. To support the development of effective communication with the head of internal audit.

External audit

33. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA.
34. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
35. To consider specific reports as agreed with the external auditor.

36. To comment on the scope and depth of external audit work and to ensure it gives value for money and to advise/liaise as required over the appointment of the Council's external auditor.
37. To commission work from internal and external audit, having taken into account the cost and proportionality of so doing and the budget for such work.
38. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies

Financial reporting

39. To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
40. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability arrangements

41. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
42. To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
43. To publish an annual report on the work of the committee.

Governance

44. To advise on appropriate strategies and action to ensure the Council promotes and maintains high standards of conduct.
45. To recommend to the Council the appointment of one or more Independent Persons and to determine the remuneration of an Independent Person.
46. To monitor the operation of the Council's Code of Conduct and to annually review the effectiveness of standards procedures and policies and make proposals for updating these as appropriate.

Consideration of Code of Conduct issues and dealing with standards allegations under the Localism Act 2011 have been delegated to the Standards Sub-Committee. Its Terms of Reference, and arrangements for dealing with such allegations, are set out in the separate documents Appendices 1 and 2.

Membership

47. The Committee shall have political balance and have a Membership of 9 Councillors and 1 Non Elected representative (non-Councillor). Members of the committee should demonstrate they hold the necessary skills and knowledge to ensure the Committee can govern effectively.
48. The Chairman and Vice-Chairman shall be appointed by the Council. The Chairman shall be a member of the Council serving on the Audit and Governance Committee but not a member of the Cabinet.
49. A Non Elected representative (non-Councillor) appointment shall coincide with the term of 4 year political appointment.

Quorum

50. The minimum number of members to transact any business of the full Committee shall be 5 and for the Hearings Panel shall be 3.

Procedures, protocol and public speaking

51. The Chairman shall be responsible for maintaining order and the effective conduct of business.
52. The committee should meet 4-6 times a year and report directly to the Council with the ability to refer specific issues to the Cabinet or Scrutiny Committee, as appropriate.
53. Public speaking will be allowed in accordance with the constitution Standing orders and Rights of the Public at Council meetings.

Voting

54. Voting shall be by a simple majority on a show of hands.
55. Any voting members may request that their votes be recorded.
56. In the event of any equality of votes, the Chairman shall have a second or casting vote.

Minutes

57. Due to the infrequency of meetings unconfirmed minutes of Audit Committee meetings will be returned to full Council by the Chairman to be received and confirmed at full Council so that any recommendations can be received in a timely manner.

Terms of Reference for a Standards Sub-Committee of the Audit and Governance Committee

(Adopted by the Council on 21st January 2019)

1. Composition

- 1.1 The sub-committee consists of five Members of Boston Borough Council drawn from the membership of the Audit and Governance Committee, two Independent Persons, and two Parish Councillors and a Parish Clerk from the parishes within the Borough area. The Independent Persons and Parish representatives will be appointed by full Council and will not have voting rights.
- 1.2 Only one Boston Borough Council Member shall be a Member of its Cabinet and the Leader of the Council shall not be that Member and that Member shall serve ex officio (non voting).

2. Role and Functions of the Sub-Committee

- To promote and maintain high standards of conduct by Members and co-opted members.
- To monitor the operation of and compliance with the Local Codes of Conduct/Protocols.
- All matters arising from or relating to the Local Codes of Conduct/Protocols.
- Advising the Audit and Governance Committee and Council on the adoption or revision of a local Code of Conduct.
- To consider and determine allegations and make arrangements under which allegations about Members' conduct can be investigated.
- To make arrangements under which decisions on allegations about Members' conduct can be made under Section 28(6) of the Localism Act 2011.
- To advise on or arrange for the training of Members and/or co-opted members of the Council on matters relating to the Code of Conduct.
- The monitoring of and issues relating to the declarations of interests and offer/receipt of gifts and hospitality by Members.
- Issues arising from breaches of confidentiality and the disclosure of exempt information by Members.

- Any matter raised by the appointed Auditor in relation to matters within the remit of the Committee.
- To receive reports on Member dispensations granted by the Monitoring Officer
- The sub-Committee will also act as the Standards Committee in relation to the Parish Councils wholly in its area and the Members of those Parish Councils.

3. Role and Functions of the Assessment Panel and Hearings Panel

An Assessment Panel has been established with the following function:-

- To receive and determine whether complaints about Councillor's conduct should be investigated or other action taken.

A Hearings Panel has been established with the following function:-

- To determine complaints referred for investigation where it is recommended by the Monitoring Officer that a breach of the Code of Conduct has been established or where the Standards Sub-Committee considers that a breach of the Code of Conduct has been disclosed.

4. Composition of the Assessment Panel and Hearing Panel

The Assessment Panel and Hearings Panel will be drawn from the membership of the Standards Sub-Committee to be selected on a meeting by meeting basis. The Assessment Panel shall comprise of three Members of the Council drawn from different political groups, where practicable. Where the complaint involves a Parish Councillor, a parish representative will serve on the Assessment Panel with two Boston Borough Council elected Members, drawn from different political groups, where practicable. The Hearings Panel shall comprise of three Members of the Council serving on the Standards Sub Committee drawn from at least two different political groups, where practicable, one Independent Person and one Parish representative.

5. Quorum

The quorum for the Standards sub-committee shall be three Members of Boston Borough Council and one Independent Member.

Arrangements for dealing with standards allegations under the Localism Act 2011

(Adopted by the Council on 21st January 2019)

1. Context

- 1.1 These “Arrangements” set out how complaints may be made that an elected or co-opted member of Boston Borough Council or of a parish council within the Borough area has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a parish council within the authority’s area or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member or a member or co-opted member of a parish council against whom an allegation has been made.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for members, which is attached as Appendix 1 to these arrangements and available for inspection on the authority’s website and on request from Reception at the Borough Council’s Offices.
- 2.2 Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3. Making a complaint

- 3.1 If you wish to make a complaint, please write or email to –

The Monitoring Officer
Municipal Buildings
West Street
Boston PE21 8QR
E-mail: feedback@boston.gov.uk

- 3.2 In order to ensure that we have all the information which we need to be able to process your complaint, please write to or e-mail the Monitoring Officer or complete and send us the model complaint form, which can be downloaded from the authority's website and is available on request from Reception at the Borough Council Offices.
- 3.3 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority may investigate anonymous complaints, but will generally only do so where there is a clear public interest in doing so.
- 3.4 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.5 A complaint can only be considered if it concerns the conduct of a Member. Complaints about members of staff (including parish clerks) and decisions taken by the Council or a parish council cannot be considered.
- 3.6 For a matter to be considered by the Sub-Committee it must fall within the authority's legal jurisdiction. Therefore, if any of the following are clear from the complaint the allegation will not be put before the Assessment Panel for consideration:-
- Where it is clear from the complaint that the Member the subject of the complaint was not acting in an official capacity at the time the alleged conduct occurred.
 - Where the conduct complained of is a continuation of a situation/set of circumstances relating to the same Council, which the Assessment Panel has previously considered and determined not to take any action on.
 - Where the individual the subject of the complaint is not a Member at the time the complaint is submitted.
 - The Monitoring Officer is given delegated authority by the Council to consider the age and seriousness of the complaint in determining whether it should be submitted to the Assessment Panel.
- 3.7 On receiving the complaint the Monitoring Officer will contact the Member complained of (Subject Member) to seek their views on the circumstances surrounding the allegation.
- 3.8 The Monitoring Officer, in consultation with an Independent Person, within 20 working days shall determine if the complaint potentially constitutes a breach of the Code of Conduct taking into account legislation, professional knowledge and case law.

- 3.9 If the allegation is found to be a potential breach of the Code it will be referred to the Assessment Panel for consideration of whether it warrants investigation or other action.

4 Standards Sub-Committee Assessment Panel

- 4.1 Arrangements will be made to convene a Standards Sub-Committee Assessment Panel for consideration of the complaint within 30 working days of receiving it, or as soon as practicable to convene it.
- 4.2 The Assessment Panel will comprise of three Boston Borough Council elected Members of the Council's Standards Sub Committee, drawn from at least two different political groups, where practicable, and not from the Group of the subject member. Where the complaint involves a Parish Councillor, a parish representative will serve on the Assessment Panel, but not from the parish of the subject member, with two Boston Borough Council elected Members of the Council's Standards Sub Committee, drawn from different political groups, where practicable. The appointment of a Chairman of the Panel will be the first item of business at each meeting.
- 4.3 The Independent Person will be invited to attend all meetings of the Assessment Panel and their views will be sought and taken into consideration before the Assessment Panel takes any decision on whether a complaint should be investigated. If the Independent Person is unable to attend in person they may submit their views in writing.
- 4.4 The Monitoring Officer will circulate with the agenda papers for the meeting a pre-assessment report for each complaint received, which will contain a brief overview of the complaint, including further information submitted/obtained to assist the Panel with its decision (relevant minutes, register of interests etc.), relevant paragraphs of the Code of Conduct and a recommendation.
- 4.5 For a matter to be considered by the Panel it must fall within the Authority's legal jurisdiction. Therefore, the pre-assessment report will also confirm:-
- That the person the subject of the complaint was a Member of Boston Borough Council or a parish council within the Boston Borough Council area at the time the alleged conduct occurred.
 - That a Code of Conduct was in operation at the time the alleged conduct took place.
- 4.6 If any of these questions are answered in the negative the complaint cannot be investigated as a breach of the Code and will not be put before the Assessment Panel for consideration.

5. Assessment Panel – Possible Decisions

- 5.1 The Panel, being satisfied that the Authority has the legal jurisdiction to consider the complaint, will then use the agreed assessment criteria to reach a decision on the action, if any to be taken.
- 5.2 The Panel must also be satisfied that the conduct complained of, if proven, could amount to a breach of the Code of Conduct. Again, if this is not the case, the complaint cannot be investigated.
- 5.3 The Assessment Panel can make the following decisions:-
 - That the matter be referred to the Monitoring Officer for investigation.
 - That the matter be referred to the Monitoring Officer for 'other action'/local resolution.
 - That no further action be taken, either because:-
 - No breach of the Code of Conduct has been evidenced, or
 - It is felt, based on the information submitted, that investigation of the complaint would not be merited.

NB: There is no right of appeal to the decision that no further action be taken on the complaint.

- 5.4 The decision of the Panel will be sent to the complainant, the subject Member and the clerk to the appropriate parish council, in the form of a decision notice, within five working days of the Panel Hearing.

6. Other Action / Local Resolution

- 6.1 The Assessment Panel may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Panel may request the Monitoring Officer to take other action or seek a local resolution.
- 6.2 Examples of other action/local resolution will include:-
 - Advising the subject Member/Council concerned to undertake training
 - Advising the subject Member and complainant to engage in a process of conciliation
 - Advising the subject Member to accept that their conduct was unacceptable and to offer an apology
 - Instituting changes to procedures of the Council if they have given rise to the complaint.
- 6.3 If the subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Sub Committee and the Parish Council for information, if applicable, but will take no further action.
- 6.4 If the subject Member is not willing to comply with the suggested resolution, the complaint will be referred back to the Assessment Panel for a decision as to whether or not the complaint should be investigated.

7. Referral for investigation

- 7.1 If the Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will investigate the complaint or appoint an Investigating Officer who will contact the parties concerned.
- 7.2 The Monitoring Officer/Investigating Officer will seek to complete the investigation within three months of the complaint being referred by the Assessment Panel.
- 7.3 At the end of his/her investigation, the Monitoring Officer/Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the member concerned, to give both an opportunity to identify any matter in that draft report which they disagree with or consider requires more consideration. If the investigation has been conducted externally the Investigating Officer will in the first instance send their report to the Monitoring Officer for comments, prior to wider circulation.
- 7.4 Having received and taken account of any comments which the complainant and the Member subject of the complaint may make on the draft report, the Monitoring Officer will produce a final report if investigating the complaint himself/herself or the Investigating Officer will send his/her final report to the Monitoring Officer.
- 7.5 The Monitoring Officer/Investigating Officer can make one of two findings, namely:-
 - That no breach of the Code of Conduct has been found / no further action to be taken
 - That the conduct complained of potentially breaches the Code of Conduct.
- 7.6 Where it is concluded that no breach of the Code of Conduct has been found or that no further action should be taken-the matter ends.
- 7.7 Where the Investigating Officer concludes that the conduct complained of potentially breaches the Code of Conduct a Hearings Panel will be convened within three months of completion of the investigation.

8. Local Hearing

- 8.1 If the Assessment Panel considers that local resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer's/Investigation Officer's report will be referred to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

9. Procedure to be followed at a Local Hearing

Convening the Meeting and Access to Papers

- 9.1 The Hearing Panel shall be convened in accordance with the Council's access to Information Rules with the agenda and accompanying documents published five clear working days in advance of the meeting. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from the meetings of the Hearings Panel and to prevent the recording of the proceedings where it is likely that confidential or exempt information will be disclosed.

Attendance

- 9.2 The Panel will comprise of five members- three Boston Borough Councillors (from at least two political groups from the membership of the Standards Sub-Committee, where practicable), one parish council representative and one Independent Person, to be selected on a meeting by meeting basis. The quorum for the meeting is three councillors. Once the meeting has begun all members must remain throughout the Hearing and during any deliberations.
- 9.3 The Subject Member will be expected to attend the Hearing. If they fail to attend and where the Panel is not satisfied with any explanation for their absence, they may have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination. If satisfied with the Subject Member's reasons for not attending, the Panel may adjourn the hearing to another date. The Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the grounds that it is in the public interest to hear the allegations expeditiously.
- 9.4 The Subject Member may choose to be accompanied by a legal representative or other person (such as a friend or colleague). This person must not be directly involved in any of the allegations being considered by the Panel. The participation of the Subject Member's representative will be allowed.
- 9.5 The Monitoring Officer, Investigating Officer and other legal advisor as nominated by the Monitoring Officer may also be present, as well as a Clerk.
- 9.6 The complainant may also be present.

Conduct of the Hearing

- 9.7 Subject to paragraph 9.28, the Hearing Panel will consider the following items of business:-
- Election of Chairman;
 - Declarations of Interest;
 - In the absence of the Subject Member, consideration of whether or not to proceed with the Hearing;

- To decide on whether to exclude the public and the application of the public interest test;
- The complaint
- Advisory Notice (if applicable)

Dealing with the Complaint

Investigating Officer

- 9.8 The Investigating Officer will present their report, including any documentary evidence or other material. They may also provide witness statements. No new points shall be introduced unless agreed by the Panel and the other parties. There is a requirement for the Investigating Officer to attend the hearing and present their report. Since the report will have been circulated to the Panel and to the Subject Member in advance of the hearing, the Investigating Officer's presentation should briefly summarise the report and other material, amend errors, provide updates and clarify the written report.
- 9.9 After the Investigating Officer has presented the report and after any witnesses have given their evidence, the Subject Member or their representative may question the Investigating Officer about any matter in the Investigating Officer's report or witness statement.
- 9.10 After the Investigating Officer has presented the report and after any witnesses have given their evidence, members of the Hearings Panel may ask questions of the Investigating Officer and any witnesses whose statements have been provided by the Investigating Officer.

Subject Member

- 9.11 The Subject Member or their representative (the latter only with the agreement of the Chairman) may then present their case and call witnesses. They should provide a written summary of their case no less than five clear working days in advance of the hearing. No new points should be introduced unless agreed by the Panel and the other parties.
- 9.12 The Investigating Officer may question the Subject Member and any witnesses called by the Investigating Officer.
- 9.13 Members of the Hearings Panel may ask questions of the Subject Member and any witnesses called by the Subject Member.

Summing Up

- 9.14 The Investigating Officer will sum up the complaint
- 9.15 The Independent Person will be invited to express their views
- 9.16 The Subject Member or their representative will be given the final word.

Deliberations

- 9.17 The Panel, when deliberating on the complaint, will adjourn the Hearing to consider the matter in private. They will consider whether or not, on the facts presented to the Panel, the Subject Member has failed to comply with the Code of Conduct and they will also consider a provisional view on appropriate Advisory Notices.
- 9.18 Only the Monitoring Officer (or their nominee) and Clerk will remain with the Panel to offer legal and procedural advice if needed. If the Monitoring Officer is also the Investigating Officer their nominee will act as advisor to the Panel.
- 9.19 The Panel may reconvene at any time to seek additional information from the Investigating Officer, Subject Member or witnesses. The Panel will then adjourn to continue their deliberations.
- 9.20 The Panel will reach decisions on the findings of fact based on the balance of probabilities.

Announcing the Decision on the findings of fact on the basis of probability

- 9.21 The Panel will reconvene the hearing in public and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct and their provisional view on issuing of Advisory Notices.
- 9.22 If the Panel has found that there has been a breach, the Independent Person and the Subject Member will be invited to make representations about the Advisory Notice which the Panel is minded to impose.
- 9.23 If representations about the Advisory Notice are made, the Panel will then adjourn to consider the Advisory Notice. Only the Monitoring Officer (or their nominee) and the Clerk will remain with the Panel to offer legal or procedural advice if needed. When deciding whether to apply one or more Advisory Notices, the Panel will ensure that the application of any Advisory Notice is reasonable and proportionate to the Subject Member's behaviour.
- 9.24 Having taken into account the representations of the Independent Person and the Subject Member on the application of sanctions, the Panel will reconvene the hearing in public and the Chairman will announce:
- (i) the Advisory Notice (if any);
 - (ii) the recommendations (if any) to be made to the Council, Parish Council if relevant or Monitoring Officer.
- 9.25 If the Hearings Panel conclude that the member did not fail to comply with the Code of Conduct, the complaint will be dismissed.

Publication and notification of the Hearing Panel's decision and recommendations

9.26 Within 20 working days of the announcement of the Panel's decision the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations to:

- (a) the Subject Member
- (b) the Complainant
- (c) the Chief Executive

and will publish details of the Hearing Panel's decision, including Subject Member and a summary of the Panel's decision and recommendations and reasons for the decision and recommendations on the Council's website.

9.27 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next meeting of the Standards Sub-Committee for information.

Variations to the Procedures at the Hearing Panel

9.28 The Chairman may exercise his/her discretion and amend the order of business, where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

10. Action the Hearings Panel may take where a member has failed to comply with the Code of Conduct

10.1 The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- Publish its findings in respect of the member's conduct;
- Report its findings to Council or to the Parish Council for information;
- Recommend 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 with the exception of those they sit on by right i.e. full Council and Boston Town Area Committee;
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer, or recommend that the Parish Council, advises the member to seek and attend training;
- Remove, or recommend to the Parish Council that it removes, the member from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;

- Withdraw, or recommend to the Parish Council that it withdraws, facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Exclude, or recommend that the Parish Council exclude, the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

10.2 The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

11. The Independent Person(s)

11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is the appointed by a positive vote from a majority of all the members of Council.

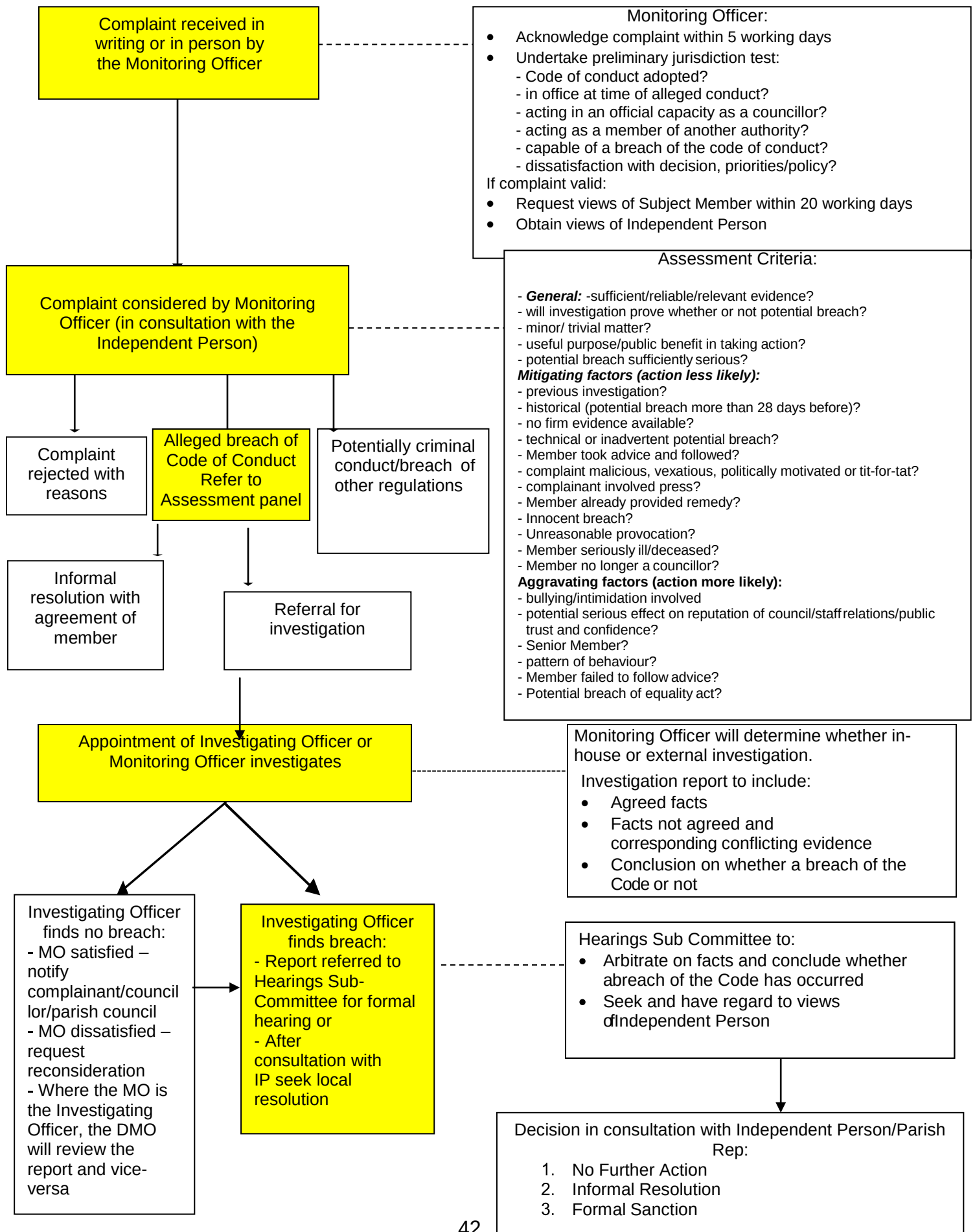
11.2 A person cannot be "independent" if he/she –

- (a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- (b) Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or
- (c) Is a relative or close friend, of a person within paragraph 11.2(a) or 11.2 (b) above. For this purpose, "relative" means –
 - (i) Spouse or civil partner;
 - (ii) Living with the other person as husband and wife or as if they were civil partners;
 - (iii) Grandparent of the other person;
 - (iv) A lineal descendent of a grandparent of the other person;
 - (v) A parent, sibling or child of a person within paragraphs (i) and (ii) above;
 - (vi) A spouse or civil partner of a person within paragraphs (iii), (iv), and (v) above; or
 - (vii) Living with a person within paragraphs (iii), (v) and (v) above as husband and wife or as if they were civil partners.

12. Appeals

12.1 There is no right of appeal for the complainant or for the member against a decision of the Assessment Panel or of the Hearings Panel

CODE OF CONDUCT COMPLAINTS FLOWCHART



7. Advisory Committees, Panels and Working Groups

7.1 Independent Remuneration Panel (Non-elected Members)

Terms of Reference

- To consider and make recommendations to the Council concerning the Members' Allowance Scheme and the level of payment and to carry out reviews from time to time as necessary. Also, to consider and make recommendations on requests for allowances made by Parish Councils.

7.2 International Links Committee (4 Members)

Terms of Reference

- To deal with all matters relating to the Council's formally recognised international relationships, including allocation of funding

7.3 Chief Officers Employment Panel (6 Members)

Terms of Reference

The Chief Officer Employment Panel discharges, on behalf of the authority, the function of the appointment or dismissal of the officer designated as the head of the authority's paid service, however the authority must **approve** that appointment before an offer of appointment is made or, must **approve** that dismissal before notice of dismissal is given at a meeting of the Full Council.

The Chief Officer Employment Panel also discharges on behalf of the authority, the function of the appointment or dismissal of (subject to provisions for the Statutory Officers Employment Advisory Panel responsibility):

- a statutory chief officer (Monitoring Officer & Section 151 Officer)
- a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- a person appointed in pursuance of section 9 of the 1989 Act(8) (assistants for political groups).

At least one member of the Cabinet must be must be a member of the Chief Officer Employment Panel.

An offer of an appointment as an officer referred to above may not be made by the appointer until the appointer is satisfied that there are no well founded objections received from members of the Cabinet once they have been informed about the proposal to appoint.

NOTES:

Where a meeting of the Panel is convened it should not include any Member or officer with a direct personal involvement in the issue at hand nor who has participated in the investigation. Members of the Panel must be impartial and have no connection with any complaint or investigation.

The Panel will have a quorum of five Members to ensure that withdrawal from the committee due to declarations of interest leave the committee available to convene. Named substitutes are allowed to take a place on the Panel as appropriate.

Where a disciplinary matter is to be heard by the Panel, 3 members of the panel and/or their named substitutes will withdraw from the process and form and appeals panel if this is required. By withdrawing from the process before proceedings have commenced they will not be involved in any decision making and will be able to hear an appeal impartially should the need arise.

All members of the Panel and any named substitutes will be required to undergo training prior to taking part in the Panel.

7.4 Statutory Officers Employment Advisory Panel

Terms of Reference – To receive referral from the Chief Officer Employment Panel on matters that may amount to dismissal of a Statutory Officer and report any findings and recommendations to Full Council.

- The Panel must comprise of at least 3 Independent Members appointed in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, in addition to 4 Elected Members selected on a political proportionality basis.

8. Boston Town Area Committee (BTAC) (All Members representing town wards)

Terms of Reference

To exercise and perform the powers and duties of the Council in relation to the following functions in respect of the non-parished Boston Town area of the Borough:

- In accordance with any agreed arrangements, to comment on applications for planning permission, conservation area consent and advertisement consent and other related matters but maintaining at all times an objective that all planning applications remain able to be determined in full by the Planning Authority within the government required target periods of 8 weeks or 13 weeks from the date of receipt.
- To provide and maintain urban open spaces, play areas, allotments and seats.
- To provide and maintain other facilities and services which are mainly intended for the use and benefit of residents for the non-parished Boston Town area.
- To monitor and review the performance of services under the purview of the Committee.
- To recommend a precept to cover items of expenditure incurred under the Special Area Expense Account.
- To act as a consultee on major initiatives, projects and developments affecting the town area.
- To make community development grants to town-based organisations and events.

BTAC may not make a decision that significantly affects a part of the Borough are in respect of which the Committee does not have functions or all of the Borough's area. Specifically, the Committee does not have delegated powers to take decisions on outsourcing of services. It must operate within the allocated budget for the town area (that is to say the Town Special Area Expense Account).

BTAC is authorised to appoint sub-committees or working groups, drawn from its own membership, to assist with any of its functions.

The Membership

The Committee comprises all elected Members representing the town wards of Boston.

NOTES:

By convention it is accepted that the Boston Town Area Committee operates as if it were a Parish with the power to set a precept and an understanding that, in practice, other committees cannot spend Boston Town Area resources or block expenditure approved by the Boston Town Area Committee.

A copy of the BTAC constitution is attached as an Appendix.

APPENDIX

CONSTITUTION OF THE BOSTON TOWN AREA COMMITTEE

1. Name of the Committee

The Committee shall be called the “Boston Town Area Committee” (referred to in the document as “BTAC”).)

2. Membership

The Committee comprises all elected Members representing the town wards of Boston.

3. Election of Chairman and Vice-Chairman

BTAC shall, at its first meeting of the Municipal Year, elect a Chairman and Vice-Chairman and shall be responsible for filling any vacancy.

4. Role

- a) To exercise and perform the powers and duties of the Council in respect of the non-parished Boston town area of the Borough for those services and functions delegated to it.
- b) To take responsibility for the town’s Special Area Expense Account (SAEA)
- c) To reflect and represent the views of town wards and residents.

5. Meetings

- a) Ordinary meetings of the Committee shall be held on such dates as the Council shall at its annual meeting decide.
- b) The Committee may decide to hold such special meetings as it considers necessary.
- c) The Chairman or, in his absence, the Vice-Chairman may call a special meeting of the Committee at any time following consultation with the Chief Executive.

6. Quorum

The quorum for BTAC shall be six Members.

7. Functions and Powers

- 7.1 To exercise and perform the powers and duties of the Council in relation to the following functions in respect of the non-parished Boston Town area of the Borough:
- a) In accordance with any agreed arrangements, to comment on applications for planning permission, conservation area consent and advertisement consent and other related matters but maintaining at all times an objective that all planning applications remain able to be determined in full by the Planning Authority within the government required target periods of 8 weeks or 13 weeks from the date of receipt.
 - b) To provide and maintain urban open spaces, play areas, allotments and seats.
 - c) To provide and maintain other facilities and services which are mainly intended for the use and benefit of residents for the non-parished Boston Town area.
 - d) To monitor and review the performance of services under the purview of the Committee.
 - e) To recommend a precept to cover items of expenditure incurred under the Special Area Expense Account.
 - f) To act as a consultee on major initiatives, projects and developments affecting the town area.
 - g) To make community development grants to town-based organisations and events.
- 7.2 BTAC may not make a decision that significantly affects a part of the Borough and in respect of which the Committee does not have functions or all of the Borough's area. Specifically, the Committee does not have delegated powers to take decisions on outsourcing of services. It must operate within the allocated budget for the town area (that is to say the Town Special Area Expense Account).
- 7.3 BTAC is authorised to appoint sub-committees or working groups, drawn from its own membership, to assist with any of its functions.

8 Procedure at Meetings

- 8.1 Procedure at meetings of BTAC will be governed by the Council Procedure Rules which apply to committees, as supplemented or amended by these rules.
- 8.2 The rules on public speaking rights at BTAC meetings are as follows:
- a. Public speaking is allowed at the discretion of the Chairman;
 - b. Members of the public may place items on the agenda for meetings of BTAC on at least ten days notice being given to the Council.
 - c. A 10 minute public speaking slot is provided for at the beginning of meetings of BTAC, which may be extended by the Committee or at the discretion of the Chairman.

- 8.3 BTAC may invite individuals or representatives from other agencies and groups to participate in the proceedings of the Committee as and when appropriate, other than by way of co-option as voting members.
- 8.4 Any member of BTAC shall be entitled to give notice to the Chief Executive that he/she wants an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

9 Access to Information

BTAC will comply with the Access to Information Rules contained in Part 4 of the Council's Constitution.

Approved by Council on 9 May 2005 and amended by Council on 24 April 2006

9. THE SOUTH EAST LINCOLNSHIRE JOINT STRATEGIC PLANNING COMMITTEE

STANDING ORDERS FOR THE CONDUCT OF MEETINGS AND PROCEEDINGS

These set out the rules for the conduct of meetings and proceedings for the South East Lincolnshire Joint Strategic Planning Committee to be read in conjunction with the statutory provisions set out in the East Lincolnshire Joint Strategic Planning Committee Order 2011 No. 1455, the Schedule to that Order and the Memorandum of Intent.

Key: *Italics* = provisions prescribed in the Schedule to the Order
Plain text = additional suggested text for Committee consideration/approval

1. Meetings

- 1.1 *The joint committee shall in every year hold an annual meeting.*
- 1.2 *The first meeting held after 31st May in any year shall be the annual meeting.*
- 1.3 *The joint committee may in every year hold, in addition to the annual meeting, such other meetings as it may determine.*
- 1.4 All meetings shall be called by notice specifying the business to be considered by post and/or electronic means.

2. Extraordinary Meetings

- 2.1 Three voting members or the South East Lincolnshire Joint Policy Unit Manager, following mutual consultation, may call meetings in addition to Ordinary meetings.
- 2.2 No business other than that specified in the notice of the meeting may be considered at an Extraordinary meeting. The notice must not include the consideration of the minutes of the previous meeting.

3. Notice of meeting

- 3.1 The agenda, reports and other relevant papers shall normally be open to inspection by the public for at least ten clear working days before the meeting except on the grounds of urgency where this has been authorised by the Chairman.

4. Agenda Items

- 4.1 The Committee at any properly constituted meeting shall discuss any matter within the remit of the South East Lincolnshire Joint Strategic Planning Committee.
- 4.2 Members of the Joint Committee may request inclusion of an agenda item. Requests for inclusion of items on the agenda must be submitted to the Chairman

with a copy to the South East Lincolnshire Joint Policy Unit Manager and to the Committee Secretariat, at least fifteen working days before the date of the meeting at which the item is to be considered.

- 4.3 The agenda papers shall be circulated at least ten working days before a meeting. The consideration of late papers or papers tabled at the meeting is at the discretion of the Chairman, on the grounds of urgency.

5. Urgent Items

- 5.1 Items of urgent business may be carried on at any meeting of the Joint Committee even if that item has not been included in the meeting notice, provided that in the opinion of the Chairman of the meeting, the item requires urgent consideration (and had arisen so recently that it was not reasonably practicable to specify it in the meeting notice) and a decision cannot wait until the next meeting.

6. Written Questions on Notice

- 6.1 Any member of the Joint Committee shall be entitled to ask a question about a relevant matter within the remit of the South East Lincolnshire Joint Strategic Planning Committee provided that five clear working days' notice has been given in writing to the Chairman and a copy given to the South East Lincolnshire Joint Policy Unit Manager and the Committee Secretariat.

7. Appointment of Chair and Vice-Chair

- 7.1 Subject to sub-paragraphs (3) and (4), the joint committee shall at their annual meeting appoint a chair and a vice-chair from among the voting members of the joint committee.
- 7.2 The chair and vice-chair shall, unless they resign their office or cease to be members of the joint committee, continue in office until their successors become entitled to act.
- 7.3 The chair and vice-chair shall not be members of the same constituent authority.
- 7.4 A member of a constituent authority may not be appointed as chair if any other member of that authority has held that office (otherwise than to fill a casual vacancy) in the previous 12 months.

8. Casual vacancies of Chair and Vice-Chair

- 8.1 This paragraph applies if a casual vacancy occurs in the office of chair or vice-chair of the joint committee.
- 8.2 The vacancy shall be filled by the appointment by the joint committee of one of its voting members at the next meeting.
- 8.3 The person so appointed shall hold office until the next annual meeting.

- 8.4 The person so appointed shall, so far as practicable, be a member of the same constituent authority as the person in whose place that person is appointed.

9. Ruling of the Chairman

- 9.1 The decision of the Chairman on all points of order, relevance of issues and interpretation of the Standing Orders shall be final, where such questions arise during the course of the meeting.

10. Conduct of meetings

- 10.1 At a meeting of the joint committee the chair if present shall preside.
- 10.2 If the chair is absent from a meeting of the joint committee the vice-chair shall preside.
- 10.3 If both the chair and vice-chair are absent, another voting member of the joint committee, chosen by the voting members of the joint committee present at the meeting, shall preside.
- 10.4 In the case of an equality of votes, the chair shall give a casting vote in addition to any other vote that person may have.

11. Code of Conduct

- 11.1 All members of the Joint Committee must abide by their relevant authority's Code of Conduct.

12. Bias and Pre-Determination

- 12.1 Relevant provisions relating to Bias and Pre-determination apply.

13. Calling of meetings

- 13.1 The chair of the joint committee may call a meeting of the joint committee at any time.
- 13.2 If—
- 13.2.1 the chair refuses to call a meeting of the joint committee after being presented with a requisition for that purpose signed by three voting members of the joint committee; or
- 13.2.2 without so refusing, the chair does not call a meeting within seven days after being presented with such a requisition,
- any three members of the joint committee, may, on that refusal or the expiration of those seven days (as the case may be), call a meeting of the joint committee.

- 13.3 At least ten clear days before a meeting of the joint committee—
- 13.3.1 notice of the time and place of the intended meeting shall be publicised at the offices of each constituent authority; and where the meeting is called by members of the joint committee, the notice shall be signed by those members and shall specify the business proposed to be transacted at that meeting; and
- 13.3.2 subject to paragraph (4), a summons to attend the meeting, specifying the agenda for that meeting, and, unless sub-paragraph (3.1) applies, signed by the chair, shall be left at or sent by post to the usual place of residence of every member of the joint committee; and a copy of the summons shall be given or sent to the proper officer of every constituent authority.
- 13.4 Lack of service of the summons in accordance with sub-paragraph (3.2) shall not affect the validity of a meeting.
- 13.5 A voting member who is unable to attend any meeting of the joint committee shall inform the chair **and the Committee Secretariat** of the joint committee in writing as soon as practicable and in any event not later than 24 hours before the meeting is due to take place.
- 13.6 Where the chair receives notification in accordance with sub-paragraph (5)—
- 13.6.1 the voting member giving the notification shall be deemed not to be a member of the joint committee for the whole of the meeting to which the notification relates;
- 13.6.2 the voting member's substitute may attend the meeting; and
- 13.6.3 the voting member's substitute shall be deemed to be a voting member of the joint committee for the whole of that meeting.
- 13.7 Where the office of chair is vacant, paragraphs (13.1) to (13.6) shall apply as if references to the chair of the joint committee were references to the vice-chair of the joint committee.

14. Proceedings of meetings

- 14.1 No business shall be transacted at a meeting of the joint committee unless at least five voting members are present.
- 14.2 All questions coming before or arising at a meeting of the joint committee shall be decided by a majority of the voting members of the joint committee present and voting at that meeting.
- 14.3 The minutes of the proceedings of each meeting of the joint committee shall be drawn up and shall be signed at the next ensuing meeting of the joint committee by the person presiding at that next meeting.

- 14.4 The names of the voting and co-opted members and of any substitute present at each meeting of the joint committee shall be recorded in the minutes of the proceedings of that meeting.

15. Public Participation

- 15.1 Members of the public may address the Joint Committee, ask questions of members of the Joint Committee or present petitions to the Joint Committee on any agenda item at ordinary meetings subject to the restrictions set out below. The Committee Secretariat shall notify the Chairman of any questions, petitions or requests to speak as soon as it is practicable. Petitions and questions must be directly relevant to some matter in relation to the powers and duties of the South East Lincolnshire Joint Strategic Planning Committee. The Chairman in consultation with the South East Lincolnshire Joint Policy Unit Manager may refuse a petition or question to the meeting if it is considered to be offensive, defamatory, frivolous or vexatious.
- 15.2 Once a detailed scheme of participation has been prepared and agreed by the Joint Committee details of how the public can be involved will be set out in a separate public participation guide. In the meantime, the following procedures shall apply:

16. Procedures for Speaking at a Joint Committee meeting

- 16.1 Members of the public may speak on any item on the agenda for up to three minutes. The speaker shall notify the Committee Secretariat by 12 noon, at least five working days in advance of the meeting. The scheme allows professional advisors to speak on behalf of members of the public and details of the public speaking scheme will be set out in a separate guidance note. No more than five speakers can speak on any one agenda item. The requests to speak shall be dealt with in the order of receipt by the Committee Secretariat.

17. Procedures for asking Questions at a Joint Committee meeting

- 17.1 A member of the public may also put questions to the Joint Committee. Fifteen working days notice of the question in writing should be given to the Committee Secretariat, addressed to the Chairman of the meeting. Questions must be directly related to matters within the remit of the Joint Committee. The presentation of the question to the Joint Committee shall not go beyond three minutes. This period can be extended with the permission of the Chairman in consultation with the Committee. The answer may take a verbal form but wherever possible a written answer to the question will normally be provided at the meeting. No supplementary question may be asked unless it is to seek clarification of the answer given to a question. Where an answer to a supplementary question is not available a written response will be sent to the questioner within seven working days of the meeting.
- 17.2 No more than five questions can be submitted to any one meeting limited to one question per person/body.

18. Procedure for presenting petitions at a Joint Committee meeting

- 18.1 Any local government elector for the South East Lincolnshire area shall be entitled to present a petition to an ordinary meeting of the Joint Committee. For a petition to be valid it must contain a minimum of 25 signatures of local government electors, include names and addresses of those who have signed it. Petitions must be submitted in writing or email to the Committee Secretariat at least fifteen clear working days before the meeting to which the petition is to be presented. A representative of the petitioners, being a local government elector for the South East Lincolnshire area, may speak at the meeting in support of the petition for up to three minutes.
- 18.2 Petitions will be forwarded to the relevant officer for action and direct liaison with the petitioner. No more than five petitions shall be presented/submitted to any one meeting limited to one petition per person/body. Those submitted shall be dealt with in the order of receipt by the Committee Secretariat. The Chairman, in consultation with the South East Lincolnshire Joint Policy Unit Manager can permit the maximum of five to be exceeded by a defined number at a particular meeting.

19. Voting

- 19.1 All matters coming before the Joint Committee shall be decided by a majority of the Members present and voting thereon at the meeting. All items put to the vote shall be decided by a show of hands.
- 19.2 In the case of equality of votes, the Chairman of the Joint Committee shall have a casting vote in addition to any other vote that person may have and whether or not he/she has voted before on the same motion. If the Chairman chooses not to cast a second or casting vote, then, the motion under consideration shall fall.

20. Right to Require Individual Vote to be Recorded

- 20.1 Immediately after the vote is taken at a meeting, any member may request that their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. The minutes shall not record the reason behind a members vote.

21. Record of Attendance

- 21.1 The name of every voting member, substitute member and co-opted member present at each meeting or other assembly of members shall be recorded in the minutes of the proceedings of that meeting.

22. Admission to meetings

- 22.1 The following provisions of the 1972 Act shall apply with respect to meetings of the joint committee as if references to a principal council were references to the joint committee—

- 22.1.1 section 100A (admission to meetings of principal councils), with the exception of subsections (6), (7) and (8);
- 22.1.2 section 100(l) (exempt information); and
- 22.1.3 paragraphs 1 to 11 of Schedule 12A (access to information: exempt information).
- 22.1.4 Where the public have been excluded from the whole or part of a meeting of the joint committee in accordance with any provision referred to in sub-paragraph (1), the joint committee may exclude co-opted members and observers from that meeting or (a the case may be) the relevant part of that meeting.

23. Access to Information

- 23.1 The Access to Information rules apply to this Committee. All Board meetings shall be held in public, except for those items that need to be confidential or contain exempt information by virtue of Schedule 12A, Local Government Act 1972 (as amended). Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- 23.2 Copies of the agenda and reports will be available for public inspection at the designated office of each partner authority at least 10 clear working days before the meeting. Reports that are prepared after the summons has been sent out shall be available to the public as soon as the report is completed and sent to Councillors.

24. Quorum

- 24.1 There must be five voting members present for a meeting to be quorate. If the number of members present either at the commencement of the meeting or at any time during the proceedings is less than the quorum, then the meeting shall stand adjourned. The consideration of any business not transacted at the time of the adjournment shall be carried forward to the next ordinary meeting of the Joint Committee or to a time to be fixed by the Chairman or the Committee.
- 24.2 Members including substitute members are asked to make every effort to attend these meetings and, if unable to do so, to notify the Committee Secretariat as early as possible.

25. Motions on Notice

- 25.1 Any member of the Joint Committee shall be able to submit a motion that is clearly relevant to an item on the agenda or within the powers or remit of the South East Lincolnshire Joint Strategic Planning Committee provided that 11 clear working days notice has been given in writing to the South East Lincolnshire Joint Policy Unit Manager and a copy given to the Committee Secretariat.

26. Moving of Motions

- 26.1 Every motion and amendment must be moved by the member who gave notice or by another member on their behalf and no other member shall speak to it until it has been seconded.
- 26.2 A member may second a motion or an amendment reserving his/her speech for a later time in the debate thereon.

27. Motions to Lapse

- 27.1 If a motion, notice of which is specified in the agenda, be not moved either by the member who gave the notice or by some other member on their behalf, it shall (unless postponed by the Joint Committee), be considered as withdrawn and cannot be moved again without a fresh motion.

28. Motion to be set out in Agenda

- 28.1 The South East Lincolnshire Joint Policy Unit Manager in conjunction with the Committee Secretariat shall set out in the agenda for every meeting of the Joint Committee all motions of which notice has been duly given in the order in which they have been received unless the member giving such notice indicates in writing, when giving it, that they propose to move it at some later meeting or has since withdrawn it in writing.
- 28.2 The South East Lincolnshire Joint Policy Unit Manager after discussion with the Chairman has the discretion not to publish any motions on agendas if they consider them to be scurrilous, improper or irrelevant.

29. Amendments to Motions

- 29.1 Whenever an amendment on an original motion has been moved and seconded, no second or subsequent amendment can be moved until the first amendment has been dealt with, but notice of any number of amendments on the same matter as the original motion may be given.

30. Motion of No Confidence

- 30.1 Where a motion of no confidence has been made in either the Joint Committee or an individual member, a period of five minutes shall be afforded to a representative of that body to respond to that motion.

31. Adjournment of Business

- 31.1 The Chairman may, with the consent of the Joint Committee, adjourn a meeting for such period as the Chairman may specify and on the expiration of the period specified, the Joint Committee shall resume the business which was under discussion. Any such request for adjournment can only be refused by the Chairman on the grounds of unreasonable or vexatious behaviour.

32. Removal of a Member of the Public

- 32.1 If a member of the public interrupts the proceedings, the Chairman shall warn the person concerned. If they continue to interrupt, the Chairman (after taking advice from the South East Lincolnshire Joint Policy Unit Manager or relevant officers present) shall order their removal from the meeting room.

33. Clearance of Part of Meeting Room

- 33.1 If there is a general disturbance in any part of the meeting room open to the public, the Chairman (after taking advice from the South East Lincolnshire Joint Policy Unit Manager or relevant officers present) may adjourn the meeting for as long as considered necessary and call for that part to be cleared.

34. Scheme of Delegation

- 34.1 The Joint Committee may delegate as deemed appropriate responsibilities within the remit of the South East Lincolnshire Joint Strategic Planning Committee to the South East Lincolnshire Joint Policy Unit Manager.

35. Standing Orders

- 35.1 Subject to the provisions of this Order the joint committee may make standing orders for the regulation of their proceedings and may vary or revoke any such orders.

36. Amendment of Standing Orders

- 36.1 Following discussion, a proposal to add, vary or revoke Standing Orders may be passed by a majority of the members present and voting.

37. Suspension of Standing Orders

- 37.1 Any one or more of the Standing Orders may, in case of urgency, or upon a motion made on a notice duly given, be suspended for the whole or part of any meeting, provided that a majority of the members present and voting shall so decide.

- 37.2 The following Standing Orders may be suspended:

- Agenda items;
- Written Questions on Notice;
- Public Participation;
- Procedures for speaking at a Joint Committee meeting;
- Procedures for asking questions at a Joint Committee meeting;
- Procedure for presenting petitions at a Joint Committee meeting;
- Right to require individual vote to be recorded.

SOUTH EAST LINCOLNSHIRE JOINT STRATEGIC PLANNING COMMITTEE

TERMS OF REFERENCE

Quorum: 5 **Meets:** 4 times per year Has executive powers

Composition:

- 9 members as appointed by each partner authority: 3 from Lincolnshire County Council; 3 from South Holland District Council and from 3 Boston Borough Council.
- Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1989.

Substitutions:

- Each Council shall have appointed three named substitute members to act as a substitute member with full voting rights for individual meetings only.
- Substitution members allowed to attend all meetings of the South East Lincolnshire Joint Strategic Planning Committee to contribute but not vote.

Terms of Reference:

- The preparation, submission, adoption, monitoring and revision of joint local development documents identified in a joint local development scheme; and
- the preparation, submission, adoption, monitoring and revision of a joint local development scheme, in respect of those documents.

Place of Meeting:

Meetings of the South East Lincolnshire Joint Strategic Planning Committee will be held at the offices of South Holland District Council and Boston Borough Council by rotation.

Training:

Members of the Joint Committee shall undertake appropriate training as determined

Chairing of the South East Lincolnshire Joint Strategic Planning Committee:

A Chairman and Vice-Chairman will be appointed from the membership. The Chairman and Vice-Chairman shall not be from the same authority.

Servicing the South East Lincolnshire Joint Strategic Planning Committee:

The South East Lincolnshire Joint Strategic Planning Committee will be served by officers of the Joint Policy Unit with administrative support provided by the accountable authority, South Holland District Council, following establishment of the Joint Committee. The responsibility for the accountable authority will be reviewed one year after commencement.

Legislation:

The South East Lincolnshire Joint Strategic Planning Committee has been established in accordance with Section 29 of the Planning and Compulsory Purchase Act 2004, as amended.

This page is intentionally left blank

Chief Officer Employment Panel

The Panel shall comprise three members, be politically balanced and shall include at least one member of the Cabinet.

The Quorum of the Panel is 3 and substitutes are permitted.

The Panel has the following terms of reference:

1. The making of recommendations to the Full Council on (i) the appointment of the Head of the Paid Service, the Monitoring Officer and the Section 151 Officer; and (ii) proposed dismissal of any of those officers in respect of misconduct, capability or for some other substantial reason. When dealing with potential dismissal of a statutory officer the Panel will carry out the necessary hearing in accordance with the model disciplinary procedure for the time being approved as part of the Joint Negotiating Committee ("JNC") Conditions of Service and prepare a report to the Full Council which report will be accompanied by the findings of the Independent Panel.
2. The taking of disciplinary or capability action, short of dismissal, against the Head of the Paid Service, the Monitoring Officer and the Section 151 Officer, in accordance with the JNC model disciplinary procedure.
3. Where required or recommended by the JNC model disciplinary procedure, the commissioning of an investigation by an Independent Investigator appointed in accordance with that procedure, including the setting of terms of reference for the investigation.
4. The consideration of any independent investigation in respect of a statutory Chief Officer.
5. Consideration of any submissions made by Cabinet Members following the 'Cabinet Objections Procedure' (under which the Proper Officer must notify all members of the Cabinet of any proposed dismissal and allow an opportunity for objections to be submitted) and the consideration of any reasonable representations submitted to the Panel by the Chief Officer Employment Panels of South Holland District Council and East Lindsey District Council.
6. The appointment of any other Chief Officer or Deputy Chief Officer (this includes the Chief Executive where the post of Chief Executive is separate from the Head of Paid Service)
7. The dismissal of, or the taking of any action against any non-statutory Chief Officer or Deputy Chief Officer (this includes the Chief Executive where the post of Chief Executive is separate from the Post of Head of Paid Service) on the grounds of misconduct, capability or for some other substantial reason.

8. The suspension of any statutory Chief Officer, non-statutory Chief Officer or Deputy Chief Officer and the keeping under review of any such suspension. In exceptional circumstances, the Chairman of the Panel may authorise suspension where s/he considers such action necessary and urgent.

NOTE:

- a) Subject to (b) below, where any current or prospective (as the case may be) Chief Officer, or Deputy Chief Officer is shared with South Holland District Council and East Lindsey District Council, by way of an agreement under s113 of the Local Government Act 1972, but is employed or to be employed by this Council, the members of this Panel shall meet informally with members of the Chief Officer Employment Panels of those two councils prior to any decision being made by this Panel on the appointment, disciplining or dismissal of such officer. Whilst the final decision on any such appointment, disciplining or dismissal of any such officer shall be the sole decision of this Panel, it shall have regard to any reasonable representations made by the members of the other two Panels.
- b) Where any decision (or recommendation to Full Council) to be made by this Panel relates to the disciplining or dismissal of a statutory Chief Officer, there shall be no consultation directly with the other Panels but any Independent Investigator shall be advised of the shared management arrangements and shall have the opportunity to seek feedback from either of the other councils as s/he sees fit.
- c) Subject to (d) below, where any current or prospective (as the case may be) Chief Officer or Deputy Chief Officer is shared or to be shared with South Holland District Council and East Lindsey District Council, by way of an agreement under s113 of the Local Government Act 1972, but is employed or to be employed by one of the other Councils, the members of this Panel shall meet informally with members of the Chief Officer Employment Panels of those two councils prior to any decision being made by the Panel in question on the appointment, disciplining or dismissal of such officer. Whilst the final decision on any such appointment, disciplining or dismissal of any such officer shall be the sole decision of that other Panel, the members of this Panel shall provide such representations to the other Panel as this Panel considers reasonable.
- d) Where any decision (or recommendation to Full Council) to be made by the other Panel relates to the disciplining or dismissal of a statutory Chief Officer, there shall be no consultation directly with this Panel but any Independent Investigator shall be advised of the shared management arrangements and shall have the opportunity to seek feedback from this Council as s/he sees fit

In the exercise of these functions the Panel must act in accordance with Standing Orders relating to Staff and the Local Authority (Standing Orders) (England) Regulations 2001 (as amended) including;

- (a) Head of the Paid Service** - No offer of appointment may be made until the proposed appointment has been approved by the Full Council and until notice of the proposed appointment has been given by the Proper Officer to the Cabinet Members and the Leader has not reported any material and well-founded objections within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the Full Council, taking into account the recommendation of the Independent Panel, and until notice of the proposed dismissal has been given by the Proper Officer to the Cabinet Members and the Leader has not reported any material and well-founded objections within the time given for response.
- (b) Monitoring Officer and Section 151 Officer** - No offer of appointment may be made until the proposed appointment has been approved by the Full Council and until notice of the proposed appointment has been given by the Proper Officer to the Cabinet Members and the Leader has not reported any material and well-founded objections within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the Full Council, taking into account the recommendation of the Independent Panel, and until notice of the proposed dismissal has been given by the Proper Officer to the Cabinet Members and the Leader has not reported any material and well-founded objections within the time given for response.
- (c) Other Chief Officers and Deputy Chief Officers (this includes the Chief Executive where the post of Chief Executive is separate from the Post of Head of Paid Service)** – no offer of appointment may be made nor notice of dismissal issued until notice of the proposed appointment or dismissal has been given by the Proper Officer to the Cabinet Members and the Leader has not reported any material and well-founded objections within the time given for response.

(In accordance with the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended) any remuneration, allowances or fees paid to an independent person appointed to this committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011 Act.)

Chief Officer Employment Appeals Panel

The Panel shall comprise three members, be politically balanced and shall include at least one member of the Cabinet.

No member of the Chief Officer Employment Panel shall be appointed to this Panel.

1. Determining appeals in respect of decisions of the Chief Officer Employment Panel relating to the dismissal of any Chief Officer or Deputy Chief Officer (other than the Head of the Paid Service, Monitoring Officer or Section 151 Officer).
2. Determining appeals in respect of decisions of the Chief Officer Employment Panel relating to action short of dismissal in respect of any Chief Officer or Deputy Chief Officer including the Head of Paid Service, Monitoring Officer or Section 151 Officer.

Note: In the exercise of these functions the Committee must act in accordance with Standing Orders relating to Staff and the Local Authority (Standing Orders) (England) Regulations 2001 (as amended)

SCHEDULE 3

East Lindsey District Council and Boston Borough Council Joint Strategy Board

Terms of Reference

Background

East Lindsey District Council and Boston Borough Council entered into a shared workforce arrangement from 1 July 2020. The Agreement remains in force until terminated by either or both of the Councils. To support the joint workforce structure and joint working of the councils, it has been agreed that meetings of the Joint Strategy Board will be held to consider matters of interest, opportunities for joint working and any potential further joint working of the two councils.

Role and function

The Joint Strategy Board is a non-decision making group.

The Joint Strategy Board will have the following roles and functions:

1. Monitoring the shared workforce arrangements
2. To identify, develop and oversee the implementation of, opportunities for the joint and mutually advantageous promotion of, and investment in, each of the authorities' areas by central and local government, other bodies and agencies (including, but not limited to the Environment Agency, the Lincolnshire Enterprise Partnership, Historic England, Highways England, The Arts Council, Sports England and Homes England), Lincolnshire County Council)
3. To consider and develop (if so minded) proposals for the expansion of the Strategic Alliance insofar as that would be consistent with the purposes of this Agreement
4. To identify those issues which arise and are likely to affect the future prosperity and democratic arrangements in both areas and project a joint voice in respect of such matters with the object of ensuring any change benefits to the greatest extent the Councils and their inhabitants
5. Advising on proposals brought forward on shared workforce arrangements and other joint working between the councils
6. To explore areas of Corporate Planning that are of mutual interest
7. To consider areas of innovation and budget efficiencies across both Councils
8. To submit proposals arising from 2 to 7 above through formal decision making process at each council.

Membership/Attendance

The Joint Strategy Board will comprise:

- All Cabinet members of each Council
- The Chief Executive

No substitutions to be allowed

Other officers and/or members may be invited to attend meetings of the Joint Strategy Board by the Chief Executive or by the Leaders of the two Councils (who must agree any such an invitation in advance of the meeting)

Meetings

The Joint Strategy Board will meet on at least four occasions in each year normally in March, June, September and December

The meetings will be chaired alternately by the Leader of each Council.

Administration for the meeting will be undertaken by the Democratic Services Team at each Council

Minutes of each meeting will be prepared by the Chief Executive with fourteen days of the meeting and will be circulated to all members of the Joint Strategy Board. Action points will be prepared by the Chief Executive and will be circulated to all shared managers.

Shared staff shall undertake all actions allocated to them, or shall allocate disseminate those actions to staff for whom they are responsible. Shared staff shall report back to the Joint Strategy Board as required by the Board.

These terms of reference will be reviewed every two years at the first meeting after the start of the municipal year

Officer Scheme of Delegation

Principles of Application

Decisions need to be taken as near to the point of service delivery as possible;

Officers need to be empowered but accountable and responsible;

All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council;

This scheme does not supersede or negate specific delegations that have previously been granted to officers under specific Council or Cabinet reports and/or policy where that delegation is not specifically included in this scheme;

Delegated powers must be exercised in accordance with the Council's Contract Procedure Rules and Financial Regulations, the Constitution, the legislative responsibilities and policies or relevant Council policies and procedures;

Officers must have authority to act in line with their levels of responsibility within the organisation;

All existing and newly appointed managers and staff must be advised in writing of their personal levels of delegated authority by their service area (this can be by provision of copies of the relevant documentation);

Where an officer is going to be absent for a period of time, the relevant line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence;

The Corporate Management Team must ensure that this scheme is fully implemented, monitored and reviewed and any changes required are reported to the Monitoring Officer;

The Corporate Management Team comprises: the Chief Executive, Deputy Chief Executive (Corporate Development) & s151 Officer, Deputy Chief Executive (Programme Delivery), Deputy Chief Executive (Communities), Director – Economic Development Assistant Director - Wellbeing and Community Leadership, Assistant Director - Regulatory, Assistant Director - Leisure and Culture, Assistant Director - Neighbourhoods, Assistant Director - Corporate, Assistant Director - Governance & Monitoring Officer, Assistant Director - Finance, Assistant Director - Housing, Assistant Director - Economic Growth, Assistant Director - Planning and Strategic Infrastructure, Assistant Director - Strategic Projects, Assistant Director - General Fund Assets, and Assistant Director - Strategic Growth and Development.

Any reference in this constitution, and in any separate record of specific delegations, to delegation to an officer at Chief Officer or Deputy Chief Officer level (regardless of post title) includes any Chief Officer or Deputy Chief Officer (as the case may be) who for the time being has responsibility for the department, service area or function in question, whether that officer is employed by the Council or placed at the disposal of the Council by another council pursuant to an agreement under s113 of the Local Government Act 1972.

Any reference in this constitution, and in any separate record of specific delegations, to delegations to Chief Officers or Deputy Chief Officers as a class (regardless of post titles) includes Chief Officers or Deputy Chief Officers (as the case may be) whether those officers are employed by the Council or are placed at the disposal of the Council by another council pursuant to an agreement under s113 of the Local Government Act 1972.

Statutory Officers and Proper Officers

The Council is obliged to designate officers to Statutory Posts and designate a Proper Officer in connection with some functions of the Council.

Function	Designated Officer	Named Deputy where Proper Officer is absent or unable to act
Head of Paid Service – s.4 Local Government and Housing Act 1989	Chief Executive	Deputy Chief Executives
s.151 Officer – s.151 Local Government Act 1972	Deputy Chief Executive Corporate Development & S151	Chief Executive
Monitoring Officer – s.5 and s.5A Local Government and Housing Act 1989	Assistant Director – Governance & Monitoring Officer	Legal Manager
Data Protection Officer	Group Manager for Information Manager and Data Protection	Legal Manager
Returning Officer – s.35 (1) Representation of People Act 1983	Deputy Chief Executive (Communities)	As appointed by Deputy Chief Executive (Communities)
Electoral Registration Officer – s.8 of the Representation of People Act 1983	Deputy Chief Executive (Communities)	As appointed by Deputy Chief Executive (Communities)

Proper Officer for the purposes of s.89 (1) Local Government Act 1972 in relation to Notice of Casual Vacancy	Deputy Chief Executive (Communities)	Democratic Services Manager
Proper Officer for the purposes of s.115 (2) Local Government Act 1972 in relation to money due from Officers	Deputy Chief Executive (Corporate Development) & S151	Deputy s.151 Officer
Proper Officer for the purposes of s.83 (1) to (4) Local Government Act 1972 in relation to witness and receipt of Declaration of Office	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.84 (1) Local Government Act 1972 in relation to receipt of resignation of an elected Member	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.225 Local Government Act 1972 in relation to deposit of documents	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.228 (3) Local Government Act 1972 in relation to accounts for inspection by any Member of the Council	Deputy Chief Executive (Corporate Development) & S151	Deputy s.151 Officer

Proper Officer for the purposes of S 146 (1) (a) and (b) Local Government Act 1972 in relation to declarations and certificates with regard to transfer of securities	Deputy Chief Executive (Corporate Development) & S151	Deputy s.151 Officer
Proper Officer for the purposes of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.234 Local Government Act 1972 in relation to the Authentication of Documents.	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.229 (5) Local Government Act 1972 in relation to certification of photographic copies of documents	Assistant Director – Governance & Monitoring Officer	Chief Executive
Proper Officer for the purposes of s.234 Local Government Act 1972 in relation to authentication of documents	Assistant Director – Governance & Monitoring Officer	Chief Executive
Proper Officer for the purposes of s.238 Local Government Act 1972 in relation to certification of byelaws	Assistant Director – Governance & Monitoring Officer	Chief Executive

Proper Officer for the purposes of s.248 Local Government Act 1972 in relation to officer who will keep the Roll of Honorary Freemen	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of schedule 12 paragraph 4 (2) (b) Local Government Act 1972 in relation to signing the summons to a Council Meeting	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of schedule 12 paragraph 4 (3) Local Government Act 1972 in relation to receipt of notice about address to which summons is to be sent	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.30 (5) Local Government Act 1974 in relation to giving notice that copies of an Ombudsman's report are available	Chief Executive	Assistant Director – Governance & Monitoring Officer
Proper Officer for the purposes of s.4.1 Local Government (Miscellaneous Provisions) in relation to certifying copies of evidence of resolutions and minutes of proceedings	Chief Executive	Assistant Director – Governance & Monitoring Officer

To act as a Proper Officer (Authorising Officer) under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)	Assistant Director - Regulatory	
To act as the Council's Senior Information Risk Officer.	Deputy Chief Executive Programme Delivery	Assistant Director – Governance & Monitoring Officer

1. Delegations to the Chief Executive and Head of Paid Service

	Function Delegated	Executive/Non Executive	Limits on Delegation
1.1	To exercise the powers and responsibilities of the Head of the Paid Service for the purpose of Section 4 of the Local Government & Housing Act 1989.	Non-Executive	None
1.2	To take all such action as he considers appropriate in any emergency (as defined by the Chief Executive) including power to make or approve any necessary and urgent arrangements within the powers of the Council for the protection of persons or property in any civil or other emergency where it is not possible for such action to be approved through normal council procedure. Such action shall be reported to the next meeting of the Cabinet or Full Council (as appropriate) except where a matter of confidentiality arises and such reporting shall not take place until the expiry of the confidentiality aspect	Either dependent on function	Consultation with Leader or relevant Portfolio Holder where practicable

1.3	To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, Committees or sub-committees and/or Officers acting under delegated powers.	Either dependent on function	None
1.4	To act as Proper Officer of the Council, except where legislation or this Constitution names another officer or the Council has specifically determined otherwise.	Either dependent on function	None
1.5	To settle employee and industrial relations matters, including issues involving the application or rates of pay, conditions of service or other staffing benefits etc.	Non-Executive	In consultation with the Deputy Chief Executive - People
1.6	To determine and issue to officers policies, procedures and general guidelines for the management of human resources in the areas of recruitment and planning; training and development; employee relations; health, safety and welfare (including occupational health); pay and performance, equality of opportunity and other staff related matters.	Non-Executive	None
1.7	To affix the Council's seal to any document.	Either dependent on function	None
1.8	As Head of Paid Service, derives the following directly from Statute • The manner in which the discharge by the Council of its different functions is coordinated; • The number of grades of staff required by the authority for the discharge of its functions; • The re-organisation of the authority's staff and; • The appointment, dismissal and proper management of the authority's staff, other than in relation to Statutory Officers	Non-Executive	None
1.9	To determine approved duties in respect of the Members' Allowances scheme	Non-Executive	None

1.10	To make appointments to Committees in accordance with s.16 of the Local Government and Housing Act 1989	Non-Executive	None
1.11	To exercise any delegated function in the absence of the named designated officer or nominate another	Either dependent on function	None
1.12	To sign a contract under hand which is in excess of £100,000 in value and to execute any contract to which the Common Seal of the Council is to be affixed.	Either dependent on function	None
1.13	To review allocation of functions amongst members of the Corporate Management Team and amend designations of Deputy Chief Executives and Assistant Directors	Non-Executive	None
1.14	Precautionary suspension of staff	Non-Executive	None

2. Delegations to all Corporate Management Team

	Function Delegated	Executive/Non Executive	Limits on Delegation
2.1	To act in all matters within area of responsibility and to undertake the proper day-to-day management and control of the service area and the functions administered by that service, including staffing matters accordance with the Constitution, Council's policies and procedures	Either dependent on function	As set out in any relevant policy
2.2	To delegate, designate and authorise particular officers as for the purposes of any statutory provisions, including, where necessary or convenient, and having regard to any professional or technical requirements required, an officer who is not an employee of the Council.	Either dependent on function	None

2.3	To exercise the Council's statutory powers to enter land and premises for the purposes of inspection, survey, carrying out of any works, investigation of any matter, the taking of samples or for any other purpose for which the Council is so authorised and to give such notices as may be required.	Either dependent on function	None
2.4	To take any emergency action for the safety of the public or the protection of the property of the Council and where there is the likelihood of significant harm or damage arising, in consultation with the Chief Executive	Either dependent on function	As set out in the delegation
2.5	To prepare and submit responses to national and local consultation exercises	Executive	Consultation with relevant Portfolio Holder
2.6	To receive petitions relating to his/her functions and responsibilities, provided that the matter is reported to the next appropriate Council or Cabinet meeting.	Non-Executive	None
2.7	In accordance with the Contract Procedure Rules procure goods and services and sign contracts	Executive	As set out in the Contract Procedure Rules
2.8	Statutory Notices - to make any determination and issue any decision under statutory provisions, issue and withdraw any statutory notices or make any order relating to matters that fall within their functions and responsibilities.	Either dependent on function	None
2.9	Statutory Notices - to carry out works in default of compliance with statutory notices and orders.	Either dependent on function	None
2.10	Enforcement - To take any enforcement action including but not limited to, the issue of cautions, the issue of fixed penalty notices (but not including prosecution proceedings) in relation to matters that fall within their functions and responsibilities.	Either dependent on function	None

2.11	Significant Proceedings and Litigation – To issue any prosecutions or recovery action in relation to matters that fall within their functions and responsibilities.	Either dependent on function	In consultation with the Solicitor to the Council (except where legal services are being provided by Legal Services Lincolnshire where deemed consent will apply).
2.12	Seizure of goods – Where the legislation provides, to seize or effect the forfeiture of goods, assets and other products that fall within their functions and responsibilities.	Either dependent on function	None
2.13	In the absence of the Chief Executive, the functions of the Chief Executive and the Head of Paid Service will be the responsibility of the Deputy Chief Executive, Assistant Director or Service Manager authorised for that purpose by the Chief Executive.	Either dependent on function	None
2.14	In the absence of an Assistant Director, any Assistant Director may discharge a delegation in that absence	Either dependent on function	As set out in the specific delegation to be exercised
2.15	To take any action in respect of lost or uncollected property found on any Council owned or managed buildings or premises under the powers contained in Section 41 of the Local Government (Miscellaneous Provisions) Act 1982	Executive	None
2.16	To make minor or consequential amendments to approved Policy where there has been a change in the legislation requiring an amendment	Either dependent on function	In consultation with the relevant Portfolio Holder or Chairman of relevant Committee and the Solicitor to the Council

2.17	To deal with any matter relating to staff including appointment, disciplinary action including dismissal and organisational restructuring other than any matter which is expressly reserved to Council or Chief Officer Employment Panel, provided that they are in accordance with approved personnel policies, procedures and within the approved budgetary framework.	Non-Executive	In consultation with the Deputy Chief Executive People or their HR function deputy
2.18	To sign a contract under hand which is in excess of £10,000 but less than £100,000 in value.	Either dependent upon function	
2.19	To negotiate non statutory fees that generate a net income of up to £1,000 where it would otherwise be forgone.	Either dependent upon function	Portfolio Holder
2.20	To negotiate non statutory fees that generate a net income of over £1,000 where it would otherwise be forgone.	Either dependent upon function	In consultation with s151 Officer and Portfolio Holder
2.21	To develop and promote partnership working to sustain and improve the vitality and viability of the Borough	Executive	In consultation with the Portfolio Holder
2.22	To negotiate with contractors who have been awarded contracts or leases post award	Executive	None
2.23	To draw up and issue Service Level Agreements associated with partnership working, external grants, income generation, sponsorship and other mutually agreed working arrangements.	Executive	None
2.24	To sign information sharing agreements with external partners and agencies.	Executive	In consultation with the Data Protection Officer.

3. Delegations to Deputy Chief Executive Place, Monitoring Officer and Solicitor to the Council

	Function Delegated	Executive/Non Executive	Limits on Delegation
3.1	To exercise the powers and responsibilities of the Monitoring Officer for the purpose of Section 5 of the Local Government & Housing Act 1989	Non-Executive	None
3.2	To report to the Full Council, or the Cabinet in relation to an executive function, if considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.	Non-Executive	In consultation with the Head of Paid Service and s.151 Officer
3.3	To determine and issue general guidelines to Officers and Members on legal, procedural and probity issues	Either dependent on function	None
3.4	To undertake an initial assessment of code of conduct complaints and to determine what further action (if any) is appropriate in consultation with the Independent Person.	Non-Executive	None
3.5	To determine requests from members and co-opted members for dispensations where they would other have a disclosable pecuniary interest in accordance with such arrangements for dealing with standards matters as are adopted by the Council from time to time	Non-Executive	None
3.6	To seek to resolve code of conduct complaints through mediation conciliation or such other action as the Monitoring Officer considers appropriate	Non-Executive	None
3.7	To constitute the membership of the Standards Sub Committee Hearing Panel in relation to Code of Conduct matters	Non-Executive	None

3.8	To provide advice to Cabinet, Full Council, Committee, Panel, Task and Finish Group, Member and officer of the Council regarding the scope of powers and authority to take decisions, maladministration, impropriety, probity issues	Either dependent on function	None
3.9	To discharge all functions relating to Parliamentary (including European) Elections, Police and Crime Commissioner Elections, Local Elections and National/Local Referendums, and all other prevailing legislation relating to elections.	Non-Executive	None
3.10	To allow non-commercial organisations to display the Coat of Arms of the Borough upon such terms and conditions as considers appropriate	Executive	In consultation with Mayor of the Council
3.11	To institute, conduct, defend or settle any criminal proceedings in respect of any offence which is being or has been committed under any provision of any statute, statutory instrument, byelaw or regulation made there under which the Council has a power, function, duty or discretion to enforce.	Either dependent on function	Major cases where significant expenditure will be incurred, referred to Cabinet or appropriate Committee
3.12	To institute, conduct, defend or settle any civil proceedings including arbitrations and tribunals, including major Planning Inquiries.	Either dependent on function	Major cases where significant expenditure will be incurred, referred to Cabinet or appropriate Committee
3.13	To contribute to the promotion and maintenance of high ethical standards of conduct through provision of support to the Audit and Governance Committee.	Either dependent on function	None
3.14	To seek Counsel's opinion and to instruct Counsel (or any other expert) in connection with any matter where in her opinion it is expedient to do so	Either dependent on function	None
3.15	To act as the Chief Information Officer in terms of information management	Executive	None
3.16	To act as the Senior Responsible Officer for RIPA	Executive	None

3.17	The Monitoring Officer will ensure that Cabinet, Committee and Full Council decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.	Non-Executive	None
3.18	Act as the Proper Officer in relation to Access to Information, Data Protection, Freedom of Information and Environmental Information Regulations	Executive	None
3.19	To sign a contract under hand which is in excess of £10,000 but less than £100,000 in value	Executive	None
3.20	Precautionary suspension of staff	Head of Paid Service	None
3.21	To act as the Chief Executive's designated deputy where the Chief Executive is absent or incapacitated.	Head of Paid Service	None

4. Delegations to s.151 Officer

	Function Delegated	Executive/Non Executive	Limits on Delegation
4.1	To act generally as the Council's Chief Finance Officer under the Local Government Act 1988 and to make the necessary arrangements for the proper administration of the Council's financial affairs for the purposes of s.151 Local Government Act 1972 and associated statutory provisions and not reserved to the Council.	Executive	Except those reserved to Full Council
4.2	To exercise appropriate delegations as necessary within the Council's Financial Procedure Rules, the Budgetary and Policy Framework Procedure Rules, Contract Procedure Rules, Council's Fraud Strategy, Corporate Governance Framework and the Council's Capital and Treasury Strategy and associated policies.	Executive	As defined in the various procedure rules

4.3	To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all members and will support and advise Members and officers in their respective roles.	Either dependent on function	None
4.4	To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.	Either dependent on function	None
4.5	To be the nominated Officer for the Council under the Money Laundering Regulations 2003	Executive	None
4.6	To determine and approve the Council Tax base.	Executive	None
4.7	If necessary to make reports to Council under s114 of the Local Government Finance Act 1988	Non-Executive	In consultation with the Head of Paid Service and Monitoring Officer

5. Delegations to the Deputy s.151 Officer

	Function Delegated	Executive/Non Executive	Limits on Delegation
5.1	To discharge any delegations from the s.151 Officer as necessary within the Council's Financial Procedure Rules, the Budgetary and Policy Framework Procedure Rules, Contract Procedure Rules, Council's Fraud Strategy, Corporate Governance Framework and the Council's Capital and Treasury Strategy and associated policies	Executive	As defined in the various procedure rules

6. Delegations to the Deputy Chief Executive Strategy and Assistant Director – Planning

	Function Delegated	Executive/Non Executive	Limits on Delegation
6.1	The processing and determination of all/any applications submitted under the Town and Country Planning Acts, Hazardous Substances Act and the Advertisement Regulations except: (a) In relation to any planning application, Listed Building Consent, advertisement consent and hazardous substances consent applications or submissions where an elected member has exercised the “call- in” mechanism for that matter in their own ward, within either (i) five clear days of having been notified that an application has been the subject of valid objections on planning grounds and it will otherwise be determined under delegated powers; or (ii) 14 days after having received the electronic weekly list or (iii) such other time as agreed in discussion with the Assistant Director – Planning Where a “call-in” is not exercised, the decision may be taken under delegation; or (b) The application is considered by the Assistant Director – Planning to be a significant or a departure from an up to date local plan policy or it has such public interest that it should be considered by Committee; or	Non-Executive	Defined in text of delegation

	(c) The application relates to a proposal which is Environmental Impact Assessment development; or (d) The application has been made by a council officer, a Boston Borough Council Elected Member, Co-opted Member or an appointed Independent Person, or a contractor working undertaking work for the Council to such an extent that, in the Monitoring Officer's opinion, the matter should be brought before the Planning Committee in the interests of transparency.		
6.2	Exercising all other non-executive functions relating to planning (other than those relating to planning policy), including heritage asset management.	Non- Executive	Where the call-in mechanism applies
6.3	Responsibility for proposing buildings for listing, amendments and Orders within Conservation Areas, Article 4 Directions making Tree Preservation Orders (TPOs) and determining applications for works to trees the subject of TPOs and section 211 notices for trees in Conservation Areas.	Non-Executive	Where the call-in mechanism applies
6.4	To negotiate and cause to be prepared planning obligations and the imposition of conditions, including consultation with other relevant council functions except where that matter shall be considered by the Planning Committee in respect of the following: Planning obligations where the Heads of Terms are not consistent with or are in addition to adopted policy in respect of such obligations.	Non-Executive	As set out in delegation
6.5	To impose and agree the imposition of conditions both under delegated powers but also, as necessary after consideration by the Planning Committee to effect a relevant and enforceable condition.	Non-Executive	None
6.6	The provision of pre-application advice.	Non-Executive	None

6.7	The adoption of screening and scoping opinions in relation to prospective Environmental Statements	Non-Executive	None
6.8	Responsibility for all functions relating to High Hedges legislation	Non-Executive	None
6.9	To make minor amendments or corrections (of a clerical, grammatical or editorial nature only) to the wording of conditions, obligations, reasons, informatives	Non-Executive	None
6.10	To co-ordinate and agree all Local Plan planning policy development work provided as part of the joint working agreement with South Holland District Council, inputting into the South East Lincolnshire Strategic Joint Planning Committee.	Executive	As set out in the terms of reference for the Joint Committee

7. Delegations to the Deputy Chief Executive Strategy and Assistant Director – Assets

Bereavement Services

	Function Delegated	Executive/Non Executive	Limits on Delegation
7.1	To undertake the Council's functions as a Burial Authority as defined under the Local Government Act 1972, Section 214, the Local Authorities Cemeteries Orders 1977 and 1986 and Burial Acts 1852 to 1885 (and any amendments thereto) and any prevailing legislation.	Executive	None
7.2	To undertake the Council's functions as a Cremation Authority as defined under the Cremation Acts 1902 and 1952, Cremation Regulations 1930, Cremation (England & Wales) Regulations 2008 the Environmental Protection Act 1990, and the Environmental Permitting (England and Wales) Regulations 2010 (and any amendments thereto).	Executive	None

7.3	The day to day operation of the Council's Crematorium and Cemeteries, both legal and functional.	Executive	None
7.4	To issue, sign, extinguish, transfer, assign and rectify Exclusive Rights of Burial in the Council's Cemeteries as defined under The Local Authorities Cemeteries Order 1977, Cemetery Clauses Act 1847 and Statutory Declarations Act 1835 (and any amendments thereto).	Executive	None
7.5	To Implement and take decisions, relating to the Council's Cemeteries & Crematorium Regulations.	Executive	None
7.6	To make decisions in accordance with the Memorial Masons Registration Schemes. BRAMM and RQMF.	Executive	None
7.7	To make decisions and take appropriate action in respect of unsafe memorials in the Council's Cemeteries and the Memorial Safety Policy, under the Local Authorities Cemeteries order 1977 and Health & Safety at Work Act 1974.	Executive	None
7.8	To compile and recommend Cemetery & Crematorium Fees & Charges.	Executive	In consultation with s.151 Officer
7.9	To collect, receipt, supervise collection of, collate, bank and oversee the security of all income received in relation to the Council's Cemeteries and Crematorium.	Executive	None

Property Services and Facilities Management

	Function Delegated	Executive/Non Executive	Limits on Delegation
7.10	To manage the Council's land and buildings having regard to all prevailing legislative requirements, including setting rents and charges and carrying out rent reviews.	Executive	None

7.11	To agree terms and enter into leases at Market Rent of land and buildings and to negotiate and agree all new and ongoing terms relating to such agreements.	Executive	Consultation with PH
7.12	Disposal of land and building – to agree terms and sell any land or buildings of the council at Market Value up to a value of £50,000 which are declared surplus to requirements in accordance with criteria and procedures agreed from time to time by the Cabinet	Executive	Consultation with PH and relevant ward members
7.13	Acquisition of land - To agree terms and acquire the freehold or leasehold of any land and buildings where the estimated Market Value of the freehold £50,000 or annual rent does not exceed £5,000	Executive	Consultation with Portfolio Holder
7.14	To enter into agreements for the letting and licensing of land for the purposes of events, pleasure fairs.	Executive	None
7.15	To be responsible for the provision of a property advisory service to the Council	Executive	None
7.16	To maintain the register of community assets and the register of unsuccessful applications, and to serve all necessary notices in connection with the Community Right to Bid process.	Executive	Consultation with the Portfolio Holder and relevant ward members
7.17	To oversee and implement all matters pertaining to the operation of the Public buildings cleaning & caretaking	Executive	None
7.18	The day to day caretaking operation and cleanliness of the Public buildings - Municipal Buildings & Guildhall.	Executive	None
7.19	Management of Gypsy and Traveller caravan sites	Executive	None
7.20	To discharge all functions relating to the Civil Parking Regulations and all prevailing legislation	Executive	None

Public Toilets

7.21	To oversee and implement all matters pertaining to the operation of the Public Toilets and Public buildings cleaning & caretaking	Executive	None
7.22	The day to day operation, maintenance and cleanliness of the Public Toilets.	Executive	None
7.23	To supervise collection of, collate, bank and oversee the security of all income received in relation to the Council's Public Toilets.	Executive	In Consultation with s.151 Officer
7.24	To organise the collection and security of all income received at the Council's Public Toilets.	Executive	None

8. Delegations to the Deputy Chief Executive Place and Assistant Director – Economic Growth

Arts, Heritage and Tourism

	Function Delegated	Executive/Non Executive	Limits on Delegation
8.1	Identification, development and mobilisation of projects to maintain and/or increase the heritage offer for Boston.	Executive	None
8.2	To be responsible for the museum and collection and the provision of the various facilities and activities at this site and any other connected site.	Executive	None

8.3	To co-ordinate, liaise and provide authority input into the development of Boston and its surrounds as a visitor destination with private sector and external partners.	Executive	None
8.4	To provide the visitor information service.	Executive	None
8.5	To co-ordinate, liaise and authority input into the development of Arts initiatives with external partners and agencies in accordance with the Council's Partnership Protocol.	Executive	None

Economic Development

	Function Delegated	Executive/Non Executive	Limits on Delegation
8.7	To improve the economic well-being and quality of life for our community by creating and/or retaining jobs and supporting or growing incomes and the tax base.	Executive	In consultation with the Portfolio Holder

9. Delegations to the Deputy Chief Executive People and Assistant Director Support Services and Partnerships

Finance

9.1	To make arrangements for the provision and operation of any treasury management, banking and insurance services including the authorisation of any transaction, signing of cheques or other financial instrument, provision of indemnities, agreement of terms for the raising, repayment or cancellation of loans, investments and leases.	Executive	As defined in various procedure rules
9.2	To make arrangements for the collection of Business Rates and Council Tax including any prosecution and enforcement and the determination of any discretionary reliefs.	Executive	As defined in various procedure rules

9.3	To administer the Council Tax Support Scheme, including the determination of any discretionary elements within approved policy.	Executive	None
9.4	To undertake accounting and other associated work on a chargeable basis where appropriate, for other public bodies as defined in the Local Authority (Goods and Services) Act 1970 or pursuant to arrangements under the Local Government Act 1972.	Executive	None
9.5	To provide financial information to the media, members of the public and the community subject to the provisions in respect of confidentiality.	Executive	None
9.6	To be responsible for Customer Services, including developing new customer access channels	Executive	

Leisure Services

	Function Delegated	Executive/Non Executive	Limits on Delegation
9.7	The management and development of all Sports, Play & Leisure Facilities and Services including the exclusion of persons from such premises as necessary	Executive	None
9.8	Authority to negotiate with contractors who have been awarded contracts as a result of competitive tendering or leases post award	Executive	None
9.9	Authority to vary leisure centre/sports ground fees and charges for periods of promotion and events	Executive	None
9.10	To grant leases for leisure and sport concessions	Executive	In consultation with Portfolio Holder, Deputy Chief Executive Strategy

			and Assistant Director Assets

Partnerships

	Function Delegated	Executive/Non Executive	Limits on Delegation
9.11	Authority to draw up and issue Service Level Agreements associated with partnership working, income generation and sponsorship having regard to the Partnership Protocol	Executive	None
9.12	To develop and promote partnership working to sustain and improve the vitality and viability of the Borough, including health and well-being initiatives, environmental enhancements and Carbon Management.	Executive	In consultation with the Portfolio Holder
9.13	To sign a contract under hand which is in excess of £10,000 but less than £100,000 in value	Executive	None
9.14	To take any action to recover debts due to the Council and to write-off any outstanding sums owed to the Council up to £5,000 in respect of each debt, or to an unlimited amount in respect of any debt where the debtor is bankrupt or in liquidation	Executive	As set out in delegation

10. Delegations to the Deputy Chief Executive People and the Assistant Director – Housing and Wellbeing

Housing

	Function Delegated	Executive/Non Executive	Limits on Delegation
10.1	Ensure the Council's duties and obligations in relation to homelessness and the operation of the Council's allocation scheme are fulfilled	Executive	None
10.2	Manage all forms of temporary accommodation in connection with the Council's homelessness duties including entering into lease agreements and service of any related notices	Executive	None
10.3	Ensuring that private sector housing standards are achieved, in particular as they relate to houses in multiple occupation and unfit dwellings other homes that contain hazards	Executive	None
10.4	Operation of the Council's grant systems for disabled facilities, private sector renewal, community grants, core grants and all other relevant grant schemes for which the Council is responsible	Executive	None
10.5	Perform the Council's duties and obligations in connection with private sector housing	Executive	None
10.6	Ensure that the Council's Strategic Housing Functions are all fully discharged	Executive	None

Safeguarding

	Function Delegated	Executive / Non Executive	Limits on Delegation
10.7	To ensure that the Council is compliant with all statutory safeguarding duties, that appropriate policies are in place and that all staff, elected members and volunteers are appropriately trained.	Executive	Policy changes in consultation with Portfolio Holder

11. Delegations to the Deputy Chief Executive People and Assistant Director – Organisation and Corporate Services

	Function Delegated	Executive/Non Executive	Limits on Delegation
11.1	To discharge any delegations from the Head of Paid Service in connection with the employer and employee functions of the Council, in consultation with the Head of Paid Service as required	Non-Executive	As set out in the delegation
11.2	To be responsible for the Council's transformation programme and where appropriate, consultation with the relevant CMT member and/or Portfolio Holder	Executive	As set out in the delegation
11.3	To be responsible for the Council's Communication arrangements including use of social media and relationships with the media Where press releases are to be issued in respect of Council Policy, in consultation with the relevant CMT member, Portfolio Holder, Chairman of Committee or ward member when appropriate Responding to enquiries from the media in relation to council policy, and where appropriate in consultation with the relevant member of CMT	Executive	As set out in the delegation

11.4	To be responsible for the Council's payroll system and all associated functions	Executive	None
11.5	To be responsible for complaints management in accordance with the Corporate Complaints Policy and Procedures and Quarterly Monitoring, including the Local Government Ombudsman matters and referral of any maladministration to Full Council where required	Executive	None
11.6	To be responsible for the delivery of the democratic service, electoral service function and civic arrangements	Non-Executive	None
11.7	To be responsible for the delivery of the ICT service.	Executive	None

12. Delegations to the Deputy Chief Executive Place and Assistant Director – Regulation

Environmental Health

	Function Delegated	Executive/Non Executive	Limits on Delegation
12.1	To issue licences, permits, approvals, consents, notices and registrations (with conditions where appropriate) and refuse, suspend, amend, revoke or transfer the same (unless statutory provisions prohibit such delegation) in respect of the following, but not limited to those listed, functions: • Food Safety • Caravans • Environmental Permitting	Non-Executive Non-Executive Non-Executive	None None None None

	• Business for which the Council has Health and Safety Legislative enforcement responsibility as defined by the prevailing Health and Safety legislation • Port Health including ship sanitation • Pollution Control - including noise, air, land, water and private drainage • Infectious diseases and the prevention of the spread of infection In accordance with Council Policy and all prevailing legislation.	Non-Executive Non-Executive Executive Executive	None None None
12.2	To be responsible for the provision of a dog warden service	Executive	None
12.3	To be responsible for the control of infectious diseases	Executive	None
12.4	To be responsible for the Council's Emergency Environmental Health Response Service	Executive	None

Community Safety

12.5	All aspects of community safety and crime and disorder reduction, including the CCTV service	Executive	None
12.6	To be responsible for taking action to remove all unauthorised persons, vehicles and appurtenances from Council owned land	Executive	None

Building Control

	Function Delegated	Executive/Non Executive	Limits on Delegation
12.7	To determine applications under the Building Regulations – Building Act 1984 S16 and any prevailing legislation.	Non-Executive	None
12.8	To maintain a register of Initial Notices and associated certificates given to and accepted/ rejected by the local authority under the Building Act S47-55 – Building Act S56.	Non-Executive	None
12.9	To maintain a register of notices and certificates given to the local authority under Regulation 20 (Provisions applicable to self-certification schemes).	Non-Executive	None
12.10	To discharge the functions of the Council (as the “building authority”) in relation to safety certificates for sports grounds – Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.	Non-Executive	None
12.11	The setting of charges in relation to Building Regulations chargeable activities – The Building (Local Authority Charges) Regulations 2010	Executive	In consultation with s.151 Officer

Licensing and Local Land Charges

	Function Delegated	Executive/Non Executive	Limits on Delegation
12.12	To issue licences, permits, approvals, consents, notices and registrations (with conditions where appropriate) and refuse, suspend, amend, revoke or transfer the same (unless statutory provisions prohibit such delegation) in respect of the following, but not limited to those listed, functions:		As set out in the body of the delegation

	Any other licensing or regulatory matter not specifically listed above will be deemed to be subject to the same delegations and the advice of the Monitoring Officer shall be sought as to whether the matter is Executive or Non-Executive.		
12.13	To suspend or revoke a Hackney Carriage / Private Hire Drivers Licence with immediate effect in the interests of public safety	Non-Executive	In consultation with the Chairman of the Regulatory Appeals Committee and Solicitor to the Council
12.14	To maintain the Local Land Charges Register and deliver all associated functions	Executive	None
12.15	To authorise applications for permission for car boot sales	Executive	None

Emergency Planning and Business Continuity

	Function Delegated	Executive / Non Executive	Limits on Delegation
12.16	To ensure that the Council is compliant with all statutory emergency planning and business continuity duties and that appropriate policies are in place and that all staff and elected members are appropriately trained.	Executive	None

13. Delegations to the Deputy Chief Executive Place and Assistant Director – Operations

Environmental Operations

	Function Delegated	Executive/Non Executive	Limits on Delegation

13.1	To exercise powers under the Refuse Disposal (Amenity) Act 1978 including powers of entry on to land, removal and disposal of abandoned vehicles, recovering expenses and taking enforcement action in respect of fly tipping and illegal depositing of controlled waste.	Executive	None
13.2	To exercise powers under the Environmental Protection Act 1990 and any other prevailing legislation to arrange the collection of household waste, recycling, provide receptacles etc.	Executive	None
13.3	Authority to apply for Environmental Permits for relevant waste management facilities.	Executive	None
13.4	Authority to undertake the Council's functions as a Principal Litter Authority to provide and manage a Street Cleansing service exercising the powers under the Environmental Protection Act 1990 Part 4 S.89 and any other prevailing legislation	Executive	None
13.5	To enter into contracts in relation to refuse collection, recycling, waste management, grounds maintenance and street cleansing.	Executive	None
13.6	To enter into agreements on behalf of the Council to collect commercial waste from the holder of the waste.	Executive	None
13.7	To determine and implement a reasonable charge in relation to the collection of commercial waste from the holder of the waste and for other wastes which do not form part of a statutory duty to collect, e.g. garden waste.	Executive	In consultation with the s.151 Officer
13.8	To provide, maintain and manage parks, cemeteries, open spaces, recreation grounds, outdoor play areas, roadside verges and other amenity areas.	Executive	None
13.9	To propose adoption of land to provide and manage public open spaces, recreation grounds, play equipment.	Executive	In consultation with Portfolio Holder and Assistant Director - Assets

13.10	The operational management of the Council's Markets	Executive	None
13.11	The management of the Council Allotments	Executive	None
13.12	To acquire land other than adoption, for the provision of public walks, pleasure grounds and open spaces and to manage and control them.	Executive	In consultation with Portfolio Holder and Assistant Director - Assets
13.13	To ensure that the Council is compliant in all respects with the duties contained in our Goods Vehicles Operators Licence and the requirements imposed by the Traffic Commissioners and that appropriate resources, policies and staff training are in place.	Executive	None

This page is intentionally left blank

Public Space Protection Order – Enforcement Process and Penalties.

- 1 It will be for the Head of Service responsible for the Council's Community Safety and Corporate Enforcement Functions to ensure that the PSPO is effectively enforced. This Head of Service together with the Chief Executive and other members of the Corporate Management Team are the Council's Proper Officers for PSPO enforcement and can delegate other officers accordingly.
- 2 When any person is caught consuming alcohol in any controlled drinking zone declared by Boston Borough Council by an officer(s) from Lincolnshire Police the individual will be requested to desist drinking forthwith. The officer(s) providing the request will use their discretion about confiscation and disposal of alcohol.
- 3 Where any person is requested to desist from consuming alcohol forthwith and immediately complies, Lincolnshire Police will verify the details of the person and pass them to Boston Borough Council for recording on Sentinel or any successor secure ASB platform. A warning letter will be sent to the person which will contain suitable narrative.
- 4 Where any person is requested to desist from consuming alcohol forthwith and **fails** to comply immediately they commit an offence and the instructing officer(s) from Lincolnshire Police will secure a Witness Statement in an agreed form and pass to Boston Borough Council for recording on Sentinel or any successor secure ASB platform.
- 5 In respect of 4 above, for a first offence, an officer duly authorised by Boston Borough Council will issue a **Fixed Penalty Notice** to the person concerned. Where a Fixed Penalty Notice is issued and duly paid within the timeframe prescribed, no further action will be taken and the offence will have been discharged. Where a Fixed Penalty Notice is not duly paid, the Council will consider all of the recovery options open to it in accordance with the Law and its Corporate Enforcement Policy.
- 6 Should any person requested to desist drinking alcohol in a controlled drinking zone by an officer from Lincolnshire Police as set out in 4 above **fail** to do so for a **second** time within any **six month** period, a duly authorised officer from Boston Borough Council will consider issuing a **formal prosecution** against the individual in accordance with the Law and the Council's Corporate Enforcement Policy.

Notwithstanding any failure to comply with 4 above, Lincolnshire Police retain all other prevailing powers to deal with anti-social behaviour and public order offences. Boston Borough Council also has the right to use any and all other powers vested in it to deal with any person who commits any alcohol related anti-social behaviour.

Any Fixed Penalty Notice issued by Boston Borough Council for breach of the PSPO approved by Council on 8 December 2014 will carry a £100 fine.

This page is intentionally left blank

PART 4

RULES OF PROCEDURE

- 1. Council Procedure Rules**
- 2. Access to Information Procedure Rules**
- 3. Budget and Policy Framework Rules**
- 4. Cabinet Procedure Rules**
- 5. Overview and Scrutiny Procedure Rules**
- 6. Officer Employment Procedure Rules**
- 7. Financial Procedure Rules**
- 8. Contract Procedure Rules**

PART 4 (SECTION A)

RULES OF PROCEDURE

Rule No.	COUNCIL PROCEDURE RULES INDEX	Pages
1.	Annual Meeting of the Council	1
2.	Ordinary Meetings	2
3.	Extraordinary Meetings	3
4.	Substitution	4
5.	Time and Place of Meetings	5
6.	Notice of and Summons to Meetings	5
7.	Chairman of Meeting	5
8.	Quorum	5
9.	Duration of Meeting	6
10.	Questions by the Public	6
11.	Questions by Members	8
12.	Deputations	9
13.	Presentation of Petitions	10
14.	Motions on Notice	10
15.	Motions Affecting Persons Employed by the Council	11
16.	Motions without Notice	12
17.	Rules of Debate	13
18.	State of the Area Debates	18
19.	Previous Decisions and Motions	19
20.	Voting	19
21.	Minutes	20

BOSTON BOROUGH COUNCIL

CONSTITUTION MAY 2016

Part Four

22.	Record of Attendance	21
23.	Exclusion of Public and Press	21
24.	Recording and Other Apparatus at Meetings	21
25.	Members' Conduct	22
26.	Disturbance by Public	23
27.	Suspension and Amendment of Meeting Procedure Rules	23
28.	Application to Committees and Sub-Committees	24
29.	Interpretation	26
30.	Emergency Action	26
	Schedule 1 (Quorum)	27
	Schedule 2 (Handling of Petitions)	29

COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

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

The Annual Meeting will:

- (i) elect a person to preside at the meeting if neither the outgoing Mayor nor Deputy Mayor are present;
- (ii) elect the incoming Mayor of the Council who will, amongst other duties, preside over Council meetings;
- (iii) elect the Deputy Mayor who will, amongst other duties, preside over Council meetings in the absence of the Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor and/or Chief Executive;
- (vi) elect the Leader of the Council for a four year period (only at the Annual Meeting held in a year when there is an ordinary election of Councillors, when the Leader's term of office comes to an end by virtue of Section 44E (3) of the Local Government Act 2000 (as amended)).
- (vii) appoint Overview and Scrutiny Committees and such other committees sub-committees or working parties as are necessary to deal with matters which are neither reserved to the Council nor are executive functions, including, where appropriate, the Chairman and Vice-Chairman thereof;
- (viii) appoint substitute Members of certain committees in accordance with Rule 4;
- (ix) approve a programme of ordinary meetings of committees and the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council meeting will:

- (i) decide which panels (not including Scrutiny task and finish panels), committees, sub-committees or working parties to establish for the municipal year;
- (ii) decide the size and terms of reference for those panels, committees, sub-committees or working parties;
- (iii) in the case of those panels, committees and sub-committees where the political balance rules apply, decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) 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 Cabinet.
- (vi) appoint Chairmen and Vice-Chairmen of Committees, excluding the Boston Town Area Committee, Panels and Working Parties.

2. ORDINARY MEETINGS

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

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve as a correct record the minutes of the last meeting;
- (iii) receive any declarations of interest from Members and Officers;
- (iv) receive any announcements from the Mayor or the Chief Executive;
- (v) deal with any business from the last Council meeting;
- (vi) receive questions from, and provide answers to, Members under Rule No. 11;
- (vii) receive questions from, and provide answers to, the public under Rule 10;
- (viii) receive petitions and deputations;

- (ix) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xi) receive minutes from the Audit and Governance Committee;
- (xii) consider motions of which notice has been submitted by Members of the Council in accordance with Rule 14 in the order in which they are recorded as having been received;
- (xiii) consider any other business specified in the summons to the meeting, including;
 - consideration of proposals and recommendations from the Cabinet in relation to the Council's budget and policy framework;
 - reports of the Overview and Scrutiny Committees referred to the Council for debate;
 - business referred direct to the Council by the Chief Executive, the Monitoring Officer or a Corporate Director;
 - consideration of reserved decisions from Regulatory Committees;
 - items required by statute or the Council's Constitution;
 - "call-ins" by Overview and Scrutiny Committees;
- (xiv) The business to be conducted at meetings shall be set out on the agenda accompanying the notice of the meeting. No business shall be conducted if it is not set out on the agenda, unless the Chairman of the meeting is of the opinion that the business is a matter of urgency, by reason of special circumstances, and the reason is recorded in the Minutes, and at least 75% of all voting Members present are in agreement

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;

- ii) the Mayor;
- iii) the Monitoring Officer or Section 151 Officer; and
- iv) any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

The business to be transacted at an extraordinary meeting of the Council will be restricted to a single item, with no consideration of previous minutes or reports from committees unless such a report relates to that agenda.

4. APPOINTMENT OF SUBSTITUTE MEMBERS

In addition to allocating seats on committees and sub-committees according to political balance (in accordance with the Local Government and Housing Act 1989) the Council shall also allocate seats in the same manner for substitute councillors on the Planning Committee and Audit and Governance Committee.

The Council will appoint the same number of named substitutes in respect of each political group as that group holds ordinary seats on those committees, up to a maximum of 2 for the Planning Committee and up to a maximum of 1 for the Audit and Governance Committee.

Open substitution will be permitted in the case of other Member groups and bodies (e.g. scrutiny committees, panels, consultative committees and working groups) provided the appropriate form is completed prior to the meeting.

Substitute councillors will not be permitted for meetings of the Cabinet and Licensing / Regulatory & Appeals Committee.

Substitutes may attend meetings in that capacity only:

- (a) to take the place of the ordinary Councillor for whom they are the designated substitute;
- (b) after the Group Leader (or his/her representative) has notified the Chief Executive, prior to the commencement of the meeting, of the intended substitution using the appropriate form;
- (c) Absence and substitution shall be for the whole duration of the meeting.

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

Councillors nominated to serve as substitute Members on the Planning Committee and Audit and Governance Committee must undergo appropriate training.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meetings in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence or via electronic-mail. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to panel, committee and sub-committee and working party meetings, references to the Mayor also include the chairman of committees and sub-committees, panels and working parties.

8. QUORUM

- 8.1 The quorum of a meeting will be as set out in Schedule 1 to these rules. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 8.2 If, during any meeting of the Council, the person presiding, after causing the number of members present to be counted, declares that the meeting is inquorate, the meeting shall stand adjourned for fifteen minutes.

- 8.3 If, after fifteen minutes, the person presiding again causing the number of members present to be counted, declares that the meeting remains inquorate, the meeting shall end.
- 8.4 Notwithstanding any provision in these Rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph and which has not been completed before the meeting is brought to an end shall be postponed to the next meeting of the Council, whether ordinary or extraordinary.

9. DURATION OF MEETING

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours (excluding any temporary adjournment) will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of the Leader, any Cabinet Member or the Chairman of any Panel or Committee at ordinary meetings of the Council. Questions by the public will be allowed at the beginning of each ordinary meeting of the Council, or other Standing Committee or Panel as appropriate. The period allowed for questions shall not exceed 20 minutes except with the consent of the Mayor (Chairman).

10.2 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 5 pm two clear working days before the day of the meeting. Each question must give the name and address of the questioner and must identify the office holder to whom it is to be put.

Questions must be written as succinctly as possible.

Answers to questions submitted by the public are required to be made available to the questioner four working hours prior to the commencement time of the meeting.

10.3 Number of Questions

No person or organisation may submit more than one question at any one meeting.

10.4 Scope of Questions

The Chief Executive may reject a question if it :-

- (i) does not relate to a matter of general interest; or
- (ii) does not relate to a matter for which the Council has responsibility or which affects the interests of the Borough: or
- (iii) relates exclusively to an individual grievance or personal issue: or
- (iv) is defamatory, offensive, or frivolous; or
- (v) is substantially the same as a question which has been put at a meeting of the Council within the previous six months; or requires the disclosure of exempt or confidential information.

10.5 Record of Questions

The Chief Executive will maintain a register of questions received which will be available for public inspection. A copy of the question shall be sent to the office holder to whom it is to be put.

Details of all questions will be circulated to all Members and will be made available to the public attending the meeting.

10.6 Rejection of Questions

Any person whose question is rejected in accordance with 10.4 above will be informed in writing including the reason for the rejection.

10.7 Asking the Question at the Meeting

Questions will be asked in the order in which notice of them was received, except that any person who has asked a question at the preceding meeting of the Council will only be entitled to put his or her question after questions from persons who have not asked questions at the preceding meeting have been dealt with. The Mayor will invite the questioner to put the question to the office holder named in the notice. The questioner must read out the question in person unless he or she is prevented from doing so by physical or mental disability or infirmity. The question must be put strictly in the form in which it was submitted. Answers will be given by the office holder the question is directed to, unless it properly falls within the remit of another office holder.

10.8 Supplemental Questions

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or reply. The Mayor may reject a supplementary question on any grounds in Rule 10.4 or if the time limit in Rule 10.1 has expired.

10.9 Written Answers

Any question, which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer within 7 working days of the meeting.

10.10 Reference of questions to the Cabinet or a Committee/Panel

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

11. QUESTIONS BY MEMBERS

11.1 On reports of the Cabinet or Committees and Panels

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

11.2 Questions on Notice at full Council

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

- The Mayor
- The Leader
- A Member of the Cabinet
- The Chairman of any Panel, Committee or Sub-Committee

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

11.3 Questions on Notice at Committees, Panels and Sub-Committees

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

11.4 Notice of Questions

A Member may only ask a question under Rule 11.2 or 11.3 where notice has been given in writing, or by electronic mail, to the Chief Executive at least two working days before the day of the meeting.

11.5 Response

Answers to questions submitted by Members are required to be made available to the questioner four working hours prior to the commencement time of the meeting.

An answer to any question raised under Rules 11.2 and 11.3 may take the form of:

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

11.6 Supplementary Question

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

12. DEPUTATIONS

- 12.1 Deputations relevant to some matter in relation to which the Council has power or duties or which affects the area of Boston may be received at any meeting of the Council, except the Annual Meeting, provided that notice in writing or by electronic mail has been given to the Chief Executive no later than seven working days before the day of the Council Meeting of the proposed deputation and of the objective thereof. Any Member may move a motion that the deputation be received and such motion, on being seconded, shall be voted on without discussion. On the motion being approved, the deputation shall be admitted.
- 12.2 The deputation shall not exceed five persons in number, only one of whom shall speak, and the speech, inclusive of the reading of a petition, if one is to be presented, shall not exceed five minutes.

- 12.3 When a deputation is received by the Council no discussion shall take place but any Member shall be at liberty to move a motion, without notice, that the subject matter be referred to the Cabinet or appropriate Committee or Panel and such motion, on being seconded, shall be at once put to the vote.

13. PRESENTATION OF PETITIONS

- 13.1 Petitions relating to any matter on which the Council has powers or duties or which affects the Borough may be presented to any ordinary meeting of the Council, in accordance with the Petitions Scheme as set out in Schedule 2.
- 13.2 The presentation of a petition shall be limited to not more than 3 minutes, and shall be confined to reading out the petition indicating the number and description of the signatories, and making further supporting remarks relevant to the petitions as the person presenting it thinks fit.
- 13.3 For petitions which contain less than the required number of signatories to trigger a Council debate (1,500 signatures, as set out in the Petitions Scheme), no discussion will take place, but any member shall be at liberty to move a motion, without notice, that the petition be referred to the Cabinet or appropriate Committee and such motion on being seconded shall be at once put to the vote.
- 13.4 If a petition contains the required number of signatories (1,500) to trigger a full Council debate the issue raised in the petition will be considered at the next ordinary meeting of the Council, unless it is impractical to do so then it will be considered at the following meeting.
- 13.5 For petitions which trigger full Council debates the petition organiser shall be given five minutes in which to present the petition at the meeting and the matter will then be open for discussion by Members for a maximum of 15 minutes.
- 13.6 The Council will decide how to respond to the petition at that meeting.

14. MOTIONS ON NOTICE

14.1 Notice

Except for motions which can be moved without notice under Rule 16 written notice of every motion signed by at least five Members, one of whom must be named as the proposer and another as the seconder of the motion, must be delivered to the Chief Executive not later than seven working days before the date of the meeting at which it is to be moved. The notice shall state for which meeting of the Council the notice is given. These will be entered in a book open to public inspection.

14.2 Delivery

The method of delivery of a Notice of motion submitted under Rule No. 14.1 shall be:-

- (i) by submitting an original in writing signed by the proposer, seconder and assentors of the motion; or
- (ii) by submitting a faxed or scanned copy showing the signature of the proposer, seconder and assentors of the motion; or
- (iii) by electronic mail which shall show the names of the proposer, seconder and assentors of the Motion, together with the name and address of the sender;

and in the case of (ii) and (111) above, shall be subject to verification to the satisfaction of the Chief Executive.

The Chief Executive shall record the time and date at which every such notice is delivered to him/her.

14.3 Motion set out in Agenda

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

The motion shall only be moved by the proposer and seconder by whom notice has been given. Where notice of a motion has been given for any meeting and it is not moved and seconded by the proposer and seconder it shall, unless postponed by consent of the meeting, be treated as withdrawn and shall not be moved without fresh notice.

14.4 Scope

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

15. MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any question arises at any meeting regarding the appointment, promotion, dismissal, salary, superannuation or conditions of service, or the conduct of any person employed by the Council, such questions shall not be the subject of discussion until the meeting has decided whether or not the power of exclusion of the public under Section 100 A (4) of the Local Government Act 1972 shall be exercised.

16. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 3 hours in duration;
- (n) to suspend a particular Council procedure rule, including extension of the time limit for speeches;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under Rule No. 25.4 or to exclude them from the meeting under Rule 25.5;
- (q) to give the consent of the Council where its consent is required by this Constitution; and

17. RULES OF DEBATE

17.1 No speeches until motion seconded

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

17.2 Right to require motion in writing

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

17.3 Secunder's speech

When seconding a motion or amendment, a Member may reserve the right to speak until later in the debate.

17.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point or order. No speech may exceed 5 minutes without the consent of the meeting.

17.5 When a Member may speak again

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

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

17.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.

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

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

17.7 Alteration of motion

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

17.8 Withdrawal of motion

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

17.9 Right of reply

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

17.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the time limit for a speech;
- (h) that the meeting continue beyond 3 hours in duration;
- (i) to exclude the public and press in accordance with the Access to Information Rules;
- (j) to not hear further a Member named under Rule 25.4 or to exclude them from the meeting under Rule 25.5; and
- (k) to refer the subject of debate back to a relevant Panel or Committee.

17.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member.
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the 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.

17.12 Point of Order

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

A Member may not upon raising a point of order express differences of opinion with, or contradict a speaker on the question before the meeting.

The ruling of the Mayor on a point of order shall be final and not open to discussion. The Member against whom the point of order is raised shall sit until the Mayor has given his/her decision.

17.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate.

A Member may not, upon a personal explanation, otherwise comment upon or answer the speech of another Member to seek to clarify or add to his former speech.

The ruling of the Mayor on the admissibility of a personal explanation will be final and not open to discussion.

17.14 Recommendations subject to Debate

- (a) The recommendation shall be introduced by the appropriate Cabinet Member or the Chairman of the Committee which made the recommendation or by some other member on that Member's behalf.
- (b) The introducing Member may either:
 - (i) move acceptance; or
 - (ii) move a reference back
- (c) A motion to accept a recommendation shall not be debated unless seconded.
- (d) A vote shall not be taken on a motion to accept a recommendation unless the proposer has been given an opportunity to sum up the debate.
- (e) If the recommendation or reserved decision is not in accord with their own views, the proposer and seconder of the formal motion shall be permitted to speak against the same in the debate, but the proposer shall not then have a right of reply to the debate.

17.15 Consideration of items referred direct to the Council by Officers

Where the Council considers an item of business which has been referred direct to it by either the Chief Executive, the Monitoring Officer or a Corporate Director (Chief Officer) pursuant to Rule 2 (xi) the following procedure shall apply:-

- (a) the appropriate officer shall be requested to introduce any officer report presented to the meeting in connection with the item; and

- (b) thereafter the item may be disposed of in accordance with the Council's usual procedures with regard to motions and possible amendments thereto.

17.16 Additional Rules of Debate for Council Meetings

- (i) A Member shall stand when speaking unless disabled from doing so.
- (ii) While a Member is speaking, the other Members shall remain seated and silent unless rising to a point of order or in personal explanation.
- (iii) Whenever the Mayor rises during the debate, a Member then standing shall resume his/her seat, and the Council shall be silent.

18. STATE OF THE AREA DEBATES

18.1 Calling of debate

The Leader of the Council may call a state of the area debate on important local issues from time to time in consultation with the Mayor and the Chief Executive.

The Leader of the Opposition may also call for a state of the area debate with the agreement of the Leader of the Council

18.2 Form of debate

The Leader of the Council, in consultation with the Chief Executive, will decide the form of the debate with the aim of enabling the widest possible involvement and publicity. This may include holding workshops and other events prior to or during the state of the area debate.

18.3 Chairing of debate

The debate will be chaired by the Mayor.

18.4 Results of debate

The results of the debate will be:

- (a) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) considered by the Leader of the Council in proposing the budget and policy framework to the Council for the coming year.

19. PREVIOUS DECISIONS AND MOTIONS

19.1 Motions to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council. This rule shall not apply to motions moved in pursuance of the report or a recommendation of a Committee.

20. VOTING

20.1 Majority

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

20.2 Mayor's casting vote

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

20.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 20.4 and 20.5 the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

20.4 Ballots

The vote will take place by ballot if at least one-third of the Members present at the meeting demand it. The Mayor will announce the numerical results of the ballot immediately the result is known.

20.5 Recorded vote

If at least one-third of the Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

20.6 Right to require individual vote to be recorded

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

20.7 Dissent

Subject to Rule 20.6, no expression of dissent or disapproval shall be recorded in the minutes.

20.8 Voting on appointments

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

20.9 Recorded Vote at Budget Meeting

Immediately after any vote is taken relating to the budget and Council Tax setting at a budget decision meeting there shall be recorded in the minutes of the proceedings of the meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

'Budget decision' shall have the meaning prescribed in the Local Authorities (Standing Orders) (England) Amendment) Regulations 2014.

21. MINUTES

21.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

21.2 No requirement to sign minutes of previous meeting at extraordinary meeting.

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

21.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order in which the Mayor put them. Whilst outcomes and decisions will be fully recorded the preamble will comprise a summary of what transpired at a meeting.

22. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names in the attendance register before the conclusion of every meeting to assist with the record of attendance.

23. EXCLUSION OF PUBLIC AND PRESS

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule No. 26 (Disturbance by Public).

24. RECORDING AND OTHER APPARATUS AT MEETINGS

24.1 Members of the public are entitled to report on meetings of the Council, Cabinet, and committees, except in circumstances where the public have been excluded as permitted by law.

24.2 Reporting means :-

- Filming, photographing or making an audio recording of proceedings at a meeting;
- Using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or
- Reporting or providing commentary on proceedings at a meeting, orally or in writing, so the report or commentary is available as the meeting takes place or later if the person is not present.

24.3 Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

24.4 Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

24.5 For meetings held in the Municipal Buildings, members of the public are welcome to use the Council's Wi-Fi facilities, which can be accessed by selecting from the list of available networks shown the device. Occasionally, meetings may take place in venues not operated by the Council and in such circumstances members of the public are advised to check with the venue whether Wi-Fi is available.

24.6 In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.

25. MEMBERS' CONDUCT

25.1 Interests

Members with interests to declare in respect of any item of business to be transacted at a meeting should do so at the earliest opportunity on the agenda.

Where a Member has a Disclosable Pecuniary Interest as defined by Regulations under the Localism Act 2011, they are required to leave the meeting during discussion and voting on the item in which they have a Disclosable Pecuniary Interest (unless a dispensation has been granted).

25.2 Standing to speak

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

25.3 Mayor standing

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

25.4 Member not to be heard further

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

25.5 Member to leave the meeting

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

25.6 General disturbance

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

26. DISTURBANCE BY PUBLIC

26.1 Removal of member of the public

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

26.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared, and may adjourn the meeting for so long as he/she thinks necessary.

27. SUSPENSION AND AMENDMENT OF MEETING PROCEDURE RULES

27.1 Suspension

All of these Council Rules of Procedure except:

- 6.0 (Notice of a Summons to Meetings)
- 15.0 (Motions Affecting Persons Employed by the Council)
- 20.5 (Ability to call for a recorded vote)
- 20.6 (Right to require individual vote to be recorded)
- 21.1 & 21.2 (Signing the Minutes)
- 25.1 (Interests)
- 25.6 (General Disturbance)
- 27.1 (Suspension of Procedure Rules)
- 27.2 (Variation and Revocation of Procedure Rules)
- 28.5 (g) (Opportunity for Corporate Director to advise)
- 29.0 (Interpretation)

may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension may be for the duration of the meeting or in respect of any particular item of business.

27.2 Variation and Revocation of Procedure Rules

- (a) These Procedure Rules may not be varied or revoked except by the Council.
- (b) Variation and revocation of these Procedure Rules shall not be discussed or considered by the Council except on the recommendation of a Committee of the Council. Other motions to vary and revoke these Standing Orders shall, if seconded, be adjourned to the next ordinary meeting of the Council and the motion shall be referred to a Committee for its recommendation in relation to the motion.

28. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

28.1 Application of Council Procedure Rules

All of the Council Procedure Rules apply to meetings of full Council except rule 28. None of the rules apply to meetings of the Cabinet. Only rules 4 – 10, 11.3 – 11.6, 12 – 17 (but not 17.5), and 20 – 29 (but not 25.2) apply to meetings of committees and sub-committees.

(Note: Any reference in these Procedure Rules to committees and sub-committees includes any panel, panel, working group or other such body of the Council).

28.2 Co-option

- (a) No committee shall co-opt members under Section 102 of the Local Government Act 1972 or Section 21 of the Local Government Act 2000 without the approval of the Council.
- (b) The Council may approve the co-option of members to any committee for such limited periods or for such specific purposes as the Council sees fit.

28.3 Attendance at Meetings

- (a) Subject to paragraph (6), any Member of the Council may attend any meeting of any committee on which he/she is not a member.
- (b) A Member attending a meeting under paragraph (a) may remain at the meeting even though the public has been excluded unless the committee, by resolution specifying the reason for doing so, requests him/her to leave.
- (c) A Member attending a meeting of the committee under paragraph (a) may not take part in the committee's discussion of any item except at the discretion of the Chairman.
- (d) A Member attending a meeting of a committee under paragraph (a) shall not take part in the voting on any item, unless acting as a substitute (see Rule 4).
- (e) Paragraph (a) shall not entitle a member of the Council to attend any meeting of a committee of which he/she is not a member whilst any matter in which he/she has a Disclosable Pecuniary Interest or significant conflict of interest under the Boston Members Code of Conduct, is under discussion.

28.4 Chairman and Vice-Chairman

- (a) Chairmen and Vice-Chairmen shall be appointed at the Annual Meeting of the Council, or elected at the first meeting of the committee thereafter.
- (b) If the Chairman or Vice-Chairman resigns by giving written notice of resignation to the Chief Executive, the committee shall, as the first item of business at the next meeting, elect a successor.-
- (c) The Chairman if present, shall preside.
- (d) If the Chairman is absent, the Vice-Chairman shall preside.
- (e) If the Chairman and Vice-Chairman are absent, the Committee shall elect one of the members present as Chairman of the meeting.

28.5 Business in Committees and Sub-Committees

Subject to the provisions in the Overview and Scrutiny Procedure Rules (Section 5);

- (a) Ordinary meetings of committees shall be held on such dates as the Council shall at its annual meeting decide.
- (b) Committees may decide to hold such special meetings as they consider necessary .
- (c) The Chairman or, in his absence, the Vice-Chairman may call a special meeting of a committee at any time following consultation with the Chief Executive.
- (d) No business shall be transacted at a special meeting of a committee unless notice of that business has been given in writing to all members of the Committee.
- (e) Items of business of a Committee or Sub-Committee shall be arranged in such order as the Chief Executive considers will best ensure the effective despatch of that business.
- (f) During the consideration of any item each Committee and Sub-Committee shall afford to such Strategic Director or such officer representing the Strategic Director as requests it the opportunity to advise upon that item.

- (g) The business to be conducted at meetings shall be set out on the agenda accompanying the notice of the meeting. No business shall be conducted if it is not set out on the agenda, unless the Chairman of the meeting is of the opinion that the business is a matter of urgency, by reason of special circumstances, and the reason is recorded in the Minutes, and at least 75% of all voting Members present are in agreement.

28.6 Working Parties and Task and Finish Groups

Committees may establish working parties or task and finish groups to act in an advisory capacity and to make recommendations to the parent committee.

Where such a working party or task and finish group is established the Committee will be required to determine:-

- (i) Its remit
- (ii) Its duration and procedures for reporting back to the parent committee
- (iii) Its membership (including eligibility)

All working parties and task and finish groups shall be held in private unless an express resolution is passed to the contrary.

Where appropriate, the Committee will appoint a lead officer for the conduct of the working party or task and finish group's business.

29. INTERPRETATION

The ruling of the Mayor or the Chairman as to the construction or application of any of these Procedure Rules, or regarding any proceedings of Council meeting or Committee shall not be challenged at any meeting of the Council.

30. EMERGENCY ACTION

Where the Chief Executive or a Strategic Director is satisfied that a decision of or action by the Council is required to meet an urgent or emergency situation that decision may be made or action may be authorised by the Chief Executive or a Strategic Director, after consultation with the Leader and Deputy Leader of the Council, the relevant portfolio holder, the Chairman and the Vice-Chairman of the Regulatory Committee which is delegated the authority to discharge functions in relation to that situation and the appropriate Chairmen of the Overview and Scrutiny Committees.

Any decision made or action taken under this Procedure Rule shall be reported to all members of the Council within seven working days and to the next meeting of the Cabinet or an appropriate Committee.

SCHEDULE 1**TABLE OF COMMITTEES AND QUORUM**

Name/Type	Quorum
Council	11
Cabinet (Executive)	4
Overview & Scrutiny Committees	5
Audit and Governance Committee	3
Planning Committee	5
Licensing/Regulatory and Appeals Committee	3
Boston Town Area Committee	6
Other Committees and Working Panels	3

SCHEDULE 2

SCHEME FOR HANDLING PETITIONS

1. Guidelines

- 1.1 All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out how the petition is to be dealt with. We will treat something as a petition if it is identified as being a petition or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:-

Democratic Services Manager
Boston Borough Council
Municipal Buildings
West Street
Boston. PE21 8QR

Or, via www.boston.gov.uk, in electronic form if created, signed and submitted online by following a procedure to be introduced for the purpose and to be set out on the Council's website.

- 1.2 Petitions can also be presented to any ordinary meeting of the Council. These meetings take place on a regular basis and dates and times are published by Notice and on the Council's website. To present a petition to the Council in person, or to request your Councillor or someone else to present it on your behalf, please contact the Democratic Services Manager on 01205 314224 at least 10 working days before the meeting and they will talk you through the process.
- 1.3 If your petition has received 1500 signatures or more it will be scheduled for debate at Full Council. If this is the case we will let you know whether this will happen at the same meeting you present your petition or at a later meeting of the Council.
- 1.4 Guidelines for submitting a petition

Petitions submitted to the Council must include:-

- a clear and concise statement covering the subject of the petition
- what action the petitioners wish the Council to take
- the name and address and signature of the persons supporting the petition

- 1.5 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.
- 1.6 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.
- 1.7 In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.
- 1.8 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.
- 1.9 The Council reserves the right to verify signatures to a petition. This can be significant when establishing if a petition has obtained the requisite number of signatures to trigger specific processes.

2. What will the Council do when it receives a petition?

- 2.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.
- 2.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.
- 2.3 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply and the matter will be dealt with accordingly.
- 2.4 We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

- 2.5 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate.

3. How will the Council respond to petitions?

- 3.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by an appropriate scrutiny Committee
- writing to the petition organiser setting out our views on the request in the petition

- 3.2 In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in a petition.

- 3.3 The Council's response to a petition will set out the steps we intend to take and the reasons for taking this approach.

- 3.4 If the petition is about something over which the Council has no direct control we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to the petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible on our website.

- 3.5 If the petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

4. Full Council debates

- 4.1 If a petition contains more than 1500 signatures it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting.
- 4.2 This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.
- 4.3 The Council will endeavour to consider the petition at its next ordinary meeting although on some occasions this may not be possible and it will then be referred to the next following meeting.
- 4.4 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes.
- 4.5 The Council will decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee.
- 4.6 Where the issue is one on which the Council Executive is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the Council's website.

5. Officer evidence

- 5.1 A petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, the petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.
- 5.2 If the petition contains at least 750 signatures the relevant senior officer will give evidence at a public meeting of the appropriate Overview & Scrutiny Committee. The senior officers that can be called to give evidence are those officers who are members of the Council's Corporate Management Team.
- 5.3 The relevant Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in a petition, for instance if the named officer has changed jobs. The committee may also decide to call the relevant Portfolio Holder to attend the meeting.

- 5.4 Committee members will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chairman of the Committee by contacting the Council's Democratic Services Section at the above address up to six working days before the meeting.

6. E-petitions

- 6.1 The Council intends to introduce e-petitions by December 2010. These will be created and submitted through the Council's website. E-petitions will follow the same guidelines as paper petitions.
- 6.2 The petition organiser will need to provide us with their name, postal address and email address and will also need to decide how long the petition is to be open for signatures. Most petitions are expected to run for six months, but you will be able to choose a shorter or longer timeframe, up to a maximum of 12 months.
- 6.3 We expect the following to apply to our e-petitions:
- When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
 - When an e-petition has closed for signature, it will automatically be submitted to our Democratic Services team. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the Council, please contact Democratic Services as above within 10 working days of receipt of the acknowledgement.
 - A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.
 - All the e-petitions currently available for signature will be on our website.
 - When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your

name in the list of those who have signed it but your contact details will not be visible.

7. What can I do if I feel my petition has not been dealt with properly?

- 7.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the steps that the Council's overview and scrutiny committee review the steps that the council has taken in response to your petition.
- 7.2 The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.
- 7.3 The Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council Executive and arranging for the matter to be considered at a meeting of the Full Council.
- 7.4 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.



Remote Meetings Protocol and Procedure Rules

May 2020



Boston - A Great Past and a Bright Future

Introduction and Application of the Remote Meetings Procedure Rules

This Protocol and accompanying Procedure Rules provide the means and guidance for the conduct of any remote meeting of the Council, and its various Committees and Sub-Committees, held under the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 ('the Regulations').

This Protocol and Procedure Rules should be read in conjunction with the Council Standing Orders and Procedure Rules within the Council's Constitution. The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings and remain valid until 7th May 2021. This means that, wherever there is a conflict, these Remote Meetings Procedure Rules take precedence in relation to any remote meeting.

Boston Borough Council Committee Membership Approach

In supporting the conduct of remote meetings, the Leaders/Spokespersons of the political groups represented on the Council have agreed to reduce the number of members appointed to specific committees, in line with political balance for the duration of the national Covid19 restrictions.

1. Annual Meeting

To be considered at the meeting of full Council on 10 June

2. How will notice of Meetings and papers be provided?

- 2.1 The Proper Officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the Council's website <https://www.mybostonuk.com/>
- 2.2 Members will be notified of a remote meeting by email and all agenda papers will be available on the Council's website and via the agenda app as relevant or other electronic means as appropriate.
- 2.3 The 'place' at which the meeting is held may be a Council building or may be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.

2A Access to Information

For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

- (i) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and
- (ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

**Amends Council Procedure Rule 6 (notice and summons to meeting)
Part 2 of Constitution (Article 3) Rights of Members of the Public**

3. How will remote access to Meetings be provided?

- 3.1 Councillors and members of the press and public will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely.
- 3.2 If this is not possible, attendance may be through an audio link or by electronic means as referred to in Regulation 5(6)(c) of the Regulations.
- 3.3 Remote access for members of the public and Members who are not attending to participate in the meeting together with press facilities, will be provided through webcasting, live audio streaming, or others means.
- 3.4 If technology fails for a wholly remote meeting, and the meeting is no longer open to the public, any decisions made could be challenged as unlawful.

3A Remote Access to Meetings

(a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and
- (ii) “open to the public” includes access to the meeting being through remote

means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and

(b) If the Chairman is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chairman shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**Amends Council Procedure Rule 6 (notice and summons to meeting)
Part 2 of Constitution (Article 3) Rights of Members of the Public**

4. Management of Remote Meetings for Members

- 4.1 Any Member participating in a meeting remotely, must when they are speaking, be able to be heard (and ideally seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other Members participating.
- 4.2 In addition, a remote participant must be able to be heard by, and in turn hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.
- 4.3 The Chairman will normally confirm at the outset and at any reconvening of a committee or Cabinet meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of full council). Any Member participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants.
- 4.4 The attendance of those members at the meeting will be recorded by the Democratic Services Officer.
- 4.5 The quorum requirements for remote meetings will be as set out in the Constitution.
- 4.6 In the event of any apparent failure of the video, telephone or conferencing connection, the Chairman should immediately determine if the meeting is still quorate:
 - if it is, then the business of the meeting will continue; or

- if there is no quorum, then the meeting shall adjourn for a period specified by the Chairman, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.
- 4.7 Should any aspect of an individual's remote participation fail, the Chairman may call a short adjournment of up to five minutes to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative. If the connection is not restored within that time, the meeting shall continue to deal with the business whilst this happens providing the meeting remains quorate and the public are able to hear.
- 4.8 In the event of connection failure, the remote Member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those member(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item/s.
- 4.9 If the connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.
- 4.10 If a connection to a Member is lost during a regulatory meeting, the Chairman will stop the meeting to enable the connection to be restored. If the connection cannot be restored within five minutes, the meeting will proceed, providing the meeting remains quorate and the public are able to hear, but the Member who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.
- 4.11 Etiquette at the meeting is referred to further below.

4A Members in Remote Attendance

(a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Member in remote attendance will be deemed to have left the meeting where,

at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chairman may, as they deem appropriate;

- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
- (ii) count the number of Members in attendance for the purposes of the quorum; or
- (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

Amends Council Procedure Rule 8 (quorum).

5. Remote Attendance of the Public

- 5.1 Any member of the public participating in a meeting remotely in exercise of their right to speak at Council or in regulatory or other meetings must meet the same criteria as members of the Council. Members of the public attending a meeting remotely must, likewise, when they are speaking, be able to be heard (and ideally seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other members participating be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- 5.2 For the purpose of remote meetings, the public speaking scheme for planning is suspended. Persons who would have been registered as speakers under normal rules, may submit a written copy of their representation by 12 noon of the working day preceding the meeting.
- 5.3 For the purpose of remote meetings, the public questions provisions are amended with the requirement of the questioner to ask the question in person being suspended. The Chairman will read the question to the meeting.
- 5.4 The provision for the public to ask a supplementary question in person is suspended. Any supplementary question must be submitted at least one hour before the starting time of the meeting and will be read by the Chairman.
- 5.5 The requirement for notice, method of delivery, number of questions and scope of questions as set out in Part 4 Section A 10 of the Constitution remain in place.
- 5.6 For the purpose of remote meetings, the provisions for presentation of petitions and deputations are suspended.

5A Remote Attendance by Members of the Public

(a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to

attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Standing Order 5A(a) above are not met. In such circumstance the Chairman may, as they deem appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5A(a) above to be re-established;

(ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or

(iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

Amends Council Procedure Rule 10 (questions by the public)

Amends Part 5 Section E – Public Speaking Scheme for planning

6. Meeting Procedures

- 6.1 A meeting facilitator, who may be the Democratic Services Officer but preferably in addition to, is encouraged to be enlisted; whose role it will be to control the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and member interaction, engagement and connections on the instruction of the Chairman.
- 6.2 The Authority will endeavour to put in place a technological solution that will enable councillors participating in meetings remotely to indicate their wish to speak via this solution, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.
- 6.3 In respect of key committees and at Cabinet meetings, it will assist the meeting if those Members who wish to speak on a particular item could indicate their wish to speak to the Chairman and to the Democratic Services Officer in advance of the start of the meeting where possible. Political groups are also encouraged to co-ordinate this activity where possible in respect of Council and other meetings likely to result in a high number of requests to speak. This is particularly important if councillors are unable to participate via video conference.
- 6.4 The Chairman will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.
- 6.5 The Chairman, at the beginning of the meeting, will explain the protocol for member and public participation and the rules of debate. The Chairman's ruling during the debate will be final.
- 6.6 Members are asked to adhere to the following etiquette during remote attendance at a meeting:
 - Committee Members are asked to join the meeting no later than fifteen minutes before the start to allow themselves and Democratic Services the opportunity to test the equipment.
 - Any camera (video feed) should show a non-descript background or, where possible, a virtual background and members should be careful to not allow exempt or confidential papers to be seen in the video-feed.
 - Type their name on joining the meeting in full, i.e. "Cllr Joanne Smith" (where the technological solution employed by the authority enables this).
 - All Members to have their video turned off and microphones muted when not talking.

- Rather than raising one's hand or rising to be recognised or to speak, Members should avail themselves of the remote process for requesting to be heard e.g.,
 - where available Members are to use any chat facility to indicate to the Chairman that they wish to speak.
 - Members will unmute their microphone and turn their cameras on when the Chairman invites them to speak.
 - The chat facility must not be used for private conversations between councillors.
 - Only speak when invited to by the Chairman.
 - Only one person may speak at any one time.
 - Turn on the microphone and also the video-feed (if available or unless speaking to a diagram, presentation slide or drawing), then state your name before you make a comment.
 - When referring to a specific report, page, or slide, mention the report, page, or slide so that all members have a clear understanding of what is being discussed at all times.
- 6.7 Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chairman will as part of their introduction explain the procedure for their participation which will reflect those relevant elements of the above. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.
- 6.8 When the Chairman is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed he/she will progress to a decision. Unless a Recorded Vote is called, the method of voting will be by an officer calling out the name of each Member present with:
- Members stating 'for', 'against', or 'abstain' to indicate their vote when their name is called;
 - the Democratic Services Officer clearly stating the result of the vote and the Chairman then moving onto the next agenda item; or
 - by the general assent of the meeting.
- 6.9 Details of how Members voted will not be kept or minuted unless a Recorded Vote is called.
- 6.10 A recorded vote regarding a motion may be requested by a Member before the vote is taken, and supported by at least one third of the members present

at the meeting. Where a Recorded Vote is requested the Chairman will ask Members in turn to signify verbally whether or not they support that request.

6A Remote Voting

Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chairman,] the Chairman will take the vote ...

- (a) by the affirmation of the meeting if there is no dissent [by assent]; or
- (b) the Chairman will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

Amends Council Procedure Rule 20 (voting).

7 Declaration of Interests

- 7.1 Any Member participating in a remote meeting who declares a disclosable pecuniary interest, or other declarable interest, in any item of business that would normally require them to leave the room, must also leave the remote meeting. Their departure will be confirmed by the Democratic Services Officer who will invite the relevant Member by link, email or telephone, to re-join the meeting at the appropriate time.

7A Members excluded from the meeting

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

Amends Council Procedure Rule 25 (Member Conduct)
Amends Members' Code of Conduct

8 Exclusion of Public and Press

- 8.1 There are times when council meetings are not open to the public, when confidential, or "exempt" issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.

- 8.2 Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.
- 8.3 Any Member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of the Members' Code of Conduct responsibilities.

9 Public Access to Meeting Documentation following the meeting

- 9.1 Members of the public may access minutes, decision and other relevant documents through the Council's website. The definition of access to information and available to the public is the same as at Rule 2A above. Requests for access to the list of background papers and other relevant documents should be by email or by post.

This page is intentionally left blank

Public Speaking Protocol for Remote Meetings of the Planning Committee – Updated December 2025

Public speaking at remote meetings of the Planning Committee will be allowed in line with the protocol set out below.

1. Process for Speakers

- 1.1 Speakers must register with the Democratic Services Team by no later than 12 noon on the day before the meeting.
- 1.2 The following categories of speakers will be permitted and invited to speak in the order set out below:
 - Objector(s)
 - Supporter(s)
 - Applicant/Agent
 - Parish Councillor / BTAC representative
 - Ward Member
- 1.3 Each category of speaker, with the exception of Ward Member, will be limited to 3 minutes of speaking time. Ward Members speaking time will be limited to 5 minutes, but may be extended at the discretion of the Chairman. Ward Members must register their intention to speak with the Democratic Services Team.
- 1.4 Where more than one person registers to speak as an objector or supporter agreement should be reached between those parties before the meeting that one person will speak for all. If this is not possible the first person registered in the category will be allocated the 3 minutes of speaking time. The first registered speaker will be asked to provide a contact number and agree to it being shared with any subsequent person who wishes to also speak in that category.
- 1.5 The Applicant/Agent will automatically be allocated the 3 minutes of speaking time, but only one will be permitted to speak
- 1.6 Any Parish Councillor may speak on any application within the area of their parish as either an objector or supporter for a maximum of 3 minutes.

2. Supporting Documentation

- 2.1 Supporting documentation and/or photographic evidence may be submitted but must be received by 12 noon 2 clear working days prior to the meeting. Lobbying of Members of the Planning Committee either in objection or support of an application is not acceptable.

3. Public Participation at a meeting of the Planning Committee

- 3.1 Once registered the joining link for the meeting will be forwarded to the speakers. The link should not be shared with any other parties. Speakers should ensure their username is clear and reflects them. Only usernames which reflect those people registered to speak will be allowed access to the meeting.
- 3.2 It is the speaker's responsibility to ensure they can connect to the remote meeting via the internet. Failure to connect to the meeting due to technical difficulties will not prevent a decision being reached on a committee item or a decision notice issued.
- 3.3 Speakers may only speak when invited to do so and must keep their microphones muted at all other times.
- 3.4 Speakers should focus their comments on the planning application under consideration and matters relevant to planning issues, examples of which are:
- Planning policy, e.g. the Local Plan, other local planning policy, Government guidance, case law, previous decisions of the Council.
 - Design, appearance and layout.
 - Impact on visual or residential amenity, including loss of privacy, noise, disturbance, smell or nuisance
 - Impact on trees, listed buildings or a conservation area.
 - Highway safety and traffic.

Examples of issues which cannot be taken into account:

- Private property rights – boundary or access disputes; restrictive covenants; rights of way; ancient rights to light
 - Effect on property values
 - Personalities or an individual's motives
 - Matters covered by other legislation such as Environmental Health or Licensing laws.
- 3.5 Registered speakers may provide a copy of their verbal presentation:
- The statement must be provided by 12 noon on the day before the meeting to the Democratic Services Team.
 - It must not exceed the allocated time for verbal presentation.
 - In the event that a registered speaker has internet connection difficulties their statement will be read out to the Committee.
 - Failure to provide a statement or attend the meeting would not prevent a decision being reached on a committee item and a planning decision issued.
 - Any statement considered to contain aggressive or abusive language, or that makes personal remarks regarding any Member, officer or third party will be rejected.

- 3.6 Speakers must observe appropriate behaviour whilst participating in virtual meetings. No comments of a personal, slanderous, defamatory or otherwise offensive nature should be made. If any disruption is caused to the meeting the person will be removed.

4. Order of Proceedings

- 4.1 The Planning Officer will introduce their report, adding to, updating and illustrating the published written report.
- 4.2 Registered speakers will then be invited to address the Committee in the following order:
- Objector(s)
 - Supporter(s)
 - Applicant/Agent
 - Parish Councillor / BTAC representative
 - Ward Member
- 4.3 The Committee will then debate the matter (and may request further information from the Planning Officer) before reaching a decision.
- 4.4 Once consideration of the item has concluded and the committee has voted, the registered speakers on that application will be removed from the meeting, but may continue to view the meeting on the Council's YouTube channel if they so wish [Boston Borough Council - YouTube](#)

This page is intentionally left blank

PART 4 (SECTION B)

ACCESS TO INFORMATION PROCEDURE RULES

Contents

Subject	Page
1. Scope	1
2. Additional Rights to Information	1
3. Rights to Attend Meetings	1
4. Notices of Meeting	1
5. Access to Agenda and Report before the Meeting	1
6. Supply of Copies	2
7. Access to Minutes after the Meeting	2
8. Background Papers	2
9. Summary of Public's Rights	3
10. Exclusion of Access by the Public to Meetings	3
11. Exclusion of Access by the Public to Reports	5
12. Application of Rules to the Cabinet	5
13. Procedure Prior to a Private Meeting of the Cabinet	5
14. Procedure before taking Key Decisions	6
15. The Forward Plan of Key Decisions	6
16. General Exception	7
17. Special Urgency	8
18. Report to Council	8
19. Records of Decisions	8
20. Cabinet Meetings relating to matters which are not Key Decisions	9
21. Decision by Individual Members of the Executive (Cabinet)	9
22. Officer Delegated Powers	10

23.	Overview and Scrutiny Committee Access to Documents	11
24.	Additional Rights of Access for Members	11

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

These rules apply to all meetings of the Council, the Overview and Scrutiny Committee, Area Committees (if any), the Standards Committee, Regulatory Committees and public meetings of the Cabinet (together called meetings). These rules do not apply to advisory committees, panels or working parties and these shall not constitute “meetings” for the purpose of these rules.

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. Notices of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the designated Council offices at the Municipal Buildings, West Street, Boston, Lincolnshire, PE21 8QR, unless the meeting is called at shorter notice, in which case a notice will be posted when the meeting is called.

5. Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting (unless called at shorter notice, in which event the documentation will be available when the meeting is called). If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

6. Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other reasonable costs.

7. Access to Minutes after the Meeting

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information:
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting: and
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of Background Papers

The Proper Officer will set out in every report a list of those documents (called 'background papers') relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but excluding published works and any material which discloses exempt or confidential information (as defined in Rule 10 below) and in respect of executive (Cabinet) reports, the advice of a political advisor.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Municipal Buildings, West Street, Boston, Lincolnshire. These rules constitute that written summary.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential information – requirement to exclude public.

The public must be excluded from meetings during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may by resolution of the meeting concerned be excluded from meetings during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of The Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

10.3 Meaning of confidential information

"Confidential information" means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any of the qualifications below):-

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
 - 7.A Information which is subject to any obligation of confidentiality.
 - 7.B Information which relates in any way to matters concerning national security.
 - 7.C Information presented to the Standards Committee, or to a sub-committee of the Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

Qualifications:

A. Information falling within category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

B. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

C. Information which:

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of qualification A or B above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Exclusion of Access by the Public to Reports

If the Proper Officer thinks fit, the Council may exclude access by the public to the whole or any part of reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports (or parts thereof) will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of Rules to the Cabinet

- 12.1 Rules 13 – 25 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution.

13. Procedure Prior to a Private Meeting of the Cabinet

- 13.1 Subject to Rule 13.2, before a decision is taken by the Cabinet or its Committees to hold a meeting, or part of a meeting in private i.e. where the public are excluded in accordance with either Rule 10.1 or 10.2 above:-

13.1.1 A notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private must be made available at the Municipal Buildings, West Street, Boston and be published on the Council's website at least 28 clear days before the meeting.

13.1.2 A further notice of intention to hold a private meeting, including a statement of reasons for the meeting being held in private, details of any representation received by the Cabinet or its Committees about why the meeting should be open to the public and a statement of response to any such representations must be made available at the Municipal Buildings, West Street, Boston, and be published on the Council's website at least 5 clear days before the meeting.

13.2 Where the date by which a meeting must be held makes compliance with Rule 13.1 impracticable, then the decision to hold the meeting, or part of the meeting in private, may still be made if the Cabinet or its Committees obtains the agreement of the Chairman of the Overview and Scrutiny Committee (or in his/her absence the Mayor or Deputy Mayor) that the meeting is urgent and cannot reasonably be deferred provided that, as soon as reasonably practicable after such consent is obtained, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the Municipal Buildings, West Street, Boston and on the Council's website.

14. Procedure before taking Key Decisions

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

- (a) a notice of the decision has been published in the Forward Plan;
- (b) The notice of the key decision referred to in paragraph (a) above has been made available for inspection by the public at the Municipal Buildings, West Street, Boston on weekdays during office hours and on the Council's website for at least 28 clear days; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

15. The Forward Plan of Key Decisions

15.1 The Forward Plan will contain matters which will be the subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual Members of the Executive, Officers or under joint arrangements in the course of the discharge of a Cabinet function. It will state the following particulars:-

- (a) that a key decision is to be made on behalf of the Council;
- (b) The matter in respect of which the decision is to be made;
- (c) where the decision-taker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;

(Note: there is no delegation under this Constitution to individual Members and “key decisions” should only be taken by Officers acting under delegated powers in cases of emergency)

- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents submitted to the decision-taker for consideration in relation to the matter;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15.2 Publication of the Forward Plan

The forward plan of key decisions must be made available for inspection by the public at the Municipal Buildings, West Street, Boston on weekdays during office hours and on the Council’s website at least 28 clear working days before a key decision is made.

16. General Exception

Subject to Rule 17 (special urgency), where the publication of the intention to make a key decision under Rule 15 is impracticable, then the decision can only be made where:-

- (a) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee by notice in writing, of the matter about which the decision is to be made and the reason why it is impracticable to comply with Rule 15;
- (b) the Proper Officer has made a copy of that notice available for inspection by the public at the offices of the Council on weekdays during office hours and on the Council’s website; and
- (d) at least five clear days have elapsed since the Proper Officer complied with (b).

17. Special Urgency

- 17.1 Where the date by which a key decision must be made, makes compliance with Rule 16 (general exception) impracticable, the decision may only be made where the decision maker has obtained the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

18. Report to Council

18.1 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that an executive decision has been taken which was not treated as being a key decision and the Committee are of the opinion that the decision should have been treated as a key decision then the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

The requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

Alternatively, the Proper Officer shall by written notice require such a report on behalf of the Committee when so requested by the Chairman or any 5 Members of the Committee.

18.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, and the reasons for making it, the individual or body making the decision, and if the Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

18.3 Reports on special urgency decisions

The Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months or annually if there have been none. The report will include the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

19. Records of Decisions

As soon as reasonably practicable after any meeting of the Cabinet or any of its committees, the Proper Officer or, where the Proper Officer was not present, the person presiding at the meeting, will produce a written statement of every decision taken at that meeting. The statement will include:-

- (a) a record of the decision including the date that it was made;
- (b) a record of the reasons for the decision
- (c) any alternative options considered and rejected at the meeting at which the decision was made;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

20. Cabinet Meetings relating to matters which are not Key Decisions

The Cabinet will decide whether meetings relating to matters that are not key decisions will be held in public or private.

(Note: the current practice is to consider all decisions in public, with the exception of those items disclosing exempt or confidential information).

21. Decisions by Individual Members of the Executive (Cabinet)

21.1 Reports intended to be taken into account

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after that report was made publicly available under Rule 22.2 below or would have been made publicly available but for the fact that it contains confidential or exempt information.

21.2 Provision of copies of reports to the Overview and Scrutiny Committee

On giving of such a report to an individual decision maker, the person who prepared that report will give a copy of it to the Chairman of the Overview and Scrutiny Committee as soon as reasonably practical, and make it publicly available at the same time.

21.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken either by an individual Member of the Cabinet or by an Officer, he/she will prepare, or instruct the Proper Officer to prepare, a written statement of the decision, which shall include a record of the decision including the date it was made, a record of the reasons for it, any alternative options considered and rejected, a record of any conflict of interest declared by any Cabinet Member who is consulted by the decision maker, and in respect of any declared conflict of interest a note of any dispensation granted by the Monitoring Officer.

The provisions of Rules 7 and 8 (inspection of documents after meeting) will also apply to the making of executive decisions by individual Members of the Cabinet and Officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

(Note: Currently there is no delegation under this Constitution to individual Members).

22. Officer Delegated Powers

22.1 Record of Decisions Taken by Officers

As soon as reasonably practicable, after the taking of a delegated decision the relevant Officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report in relation to the decision made. The record will include:

- A record of the decision including the date it was made;
- A statement of the reasons for it;
- Details of any alternative options considered and rejected by the officer at the time of making the decision, and
- A record of any Member of the Council consulted by the officer who made the decision, who has declared a conflict of interest in relation to the decision, if the decision was made under a specific express authorisation.

The written record will be retained and made available for inspection by the public for a period of six years beginning with the date of the decision to which it relates.

Following a request, and on payment being made of postage, copying or any other necessary charge, the Monitoring Officer will arrange to supply a copy of the delegated decision notice and report in relation to an officer decision.

22.2 Under the Scheme of Officer Delegation, Officers do not have delegated authority to take decisions which are key decisions unless it is impracticable for the Cabinet to do so because of the urgent nature of the decisions to be made. Such decisions will therefore only be made in exceptional circumstances.

22.3 In the event of an Officer taking a key decision he/she will prepare or instruct the Proper Officer to prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

23. Overview and Scrutiny Committee Access to Documents

23.1 Right to copies

Subject to Rule 23.2 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to-

- (a) any business that has been transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual Member of the Cabinet or any executive decision taken by an officer.

Subject to Rule 23.2 below, where a member of the Overview and Scrutiny Committee requests a document which falls within (a) or (b) this must be provided by the Cabinet as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

23.2 Limit on rights

No Member of the Overview and Scrutiny Committee will be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising; or any review contained in any programme of work that the Overview and Scrutiny Committee or its sub-committee ; or
- (c) any part of a document that contains the advice of a political adviser.

24 Additional Rights of Access for Members

24.1 Material relating to previous business

Subject to Rule 24.3 and Rule 24.4 any document which is in the possession of, or under the control of the Cabinet and contains material relating to any business transacted at a private meeting of the Cabinet or its Committees, or any decision made by an individual member or officer in accordance with executive arrangements, must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made and this must be within 24 hours.

24.2 Material relating to business to be transacted

Subject to Rule 24.3 and Rule 24.4 any document which is in the possession of, or under the control of the Cabinet and contains material relating to any

business to be transacted at a public meeting of the Cabinet or its Committees, must be available for inspection by any member of the Council for at least 5 clear days before the meeting. Where the meeting is convened at shorter notice any such document must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice, any such document must be available for inspection when the item is added to the agenda.

24.3 Rules 24.1 and 24.2 do not require a document to be available for inspection if it appears to the Proper Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (as set out in Rule 10.2 above) unless the document contains exempt information falling into paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) or paragraph 6 of Schedule 12A of the 1972 Act.

24.4 Rules 24.1 and 24.2 do not require any document to be made available for inspection if it appears to the Proper Officer that it discloses the advice of a political adviser.

24.5 Nature of Rights

These rights of a Member are additional to any other right he/she may have.

This page is intentionally left blank

PART 4 (Section C)

Budget and Policy Framework Rules

Contents

Subject	Page
1. The Framework for Executive Decisions	2
2. Process for Developing the Budget	2
3. Process for Developing the Policy Framework	4
4. Decisions outside the Budget or Policy Framework	6
5. Urgent decisions outside the Budget or Policy Framework	6
6. Virement	7
7. In-year changes to Policy Framework	7
8. Call-in of decisions outside the Budget or Policy Framework	8

**BOSTON BOROUGH COUNCIL
THE CONSTITUTION
Part 4 – The Council Procedure Rules
Section 3 – Budget and Policy Framework Rules**

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility for the Cabinet (or, where appropriate, the Regulatory Committee) to implement it.

2. Process for Developing the Budget

2.1 The process by which the budget shall be developed is:-

- (1) In accordance with Financial Regulations, the Council's Section 151 Officer will present a report on the overall budget strategy to the Cabinet.
- (2) The draft detailed budget proposals will be developed under the guidance of the Section 151 Officer by the Council's officers in consultation with the Cabinet.
- (3) The Cabinet shall consider the budget proposals for each service area of the Council's activities and shall refer them to the appropriate Overview and Scrutiny Committees, or a joint meeting of the Committees, for consideration.
- (4) The Cabinet shall consider any recommendations from the Overview and Scrutiny Committees and may, if it considers it appropriate, amend the proposals before submitting an overall budget and proposed level of Council tax to Council for consideration.
- (5) Subject to paragraph 9, where before 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year –
 - (a) estimates for the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 42 to 49 of the Local Government Finance Act 1992.
 - (b) estimates of other amounts to be used for the purposes of such a calculation
 - (c) estimates of such a calculation, or

- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act of 1992.

And following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 6 below.

- (6) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (7) Where the Council gives instructions in accordance with paragraph 6 above, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-
 - (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts") which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration, or
 - (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreements.
- (8) When the period specified by the Council, referred to in paragraph 7, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 5 (a), take into account:-
 - (a) any amendments to the estimates or amounts that are included in any revised estimates;
 - (b) the Cabinet's reasons for those amendments;
 - (c) any disagreement that the Cabinet has with any of the Council's objections; and
 - (d) the Cabinet's reasons for that disagreement

which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (9) Paragraphs 5 to 8 shall not apply in relation to:-
- (a) calculations or substitute calculations which an authority is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992, and
 - (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with sections 52J or 52U of that Act.
- (10) The Council shall by the 11th March in each year, by simple majority, determine the budget requirement and set the level of Council Tax for the ensuing financial year, having considered the proposals of the Cabinet.

3. Process for Developing the Policy Framework

3.1 Definition: For the purpose of these rules “policy framework” means those plans and strategies expressly reserved to the Council for adoption, namely:-

- (i) Performance Improvement Plan
- (ii) Community Plan
- (iii) Crime and Disorder Reduction Strategy
- (iv) Local Development Framework (and associated statutory documents)
- (v) Food Law Enforcement Service Plan
- (vi) Housing Investment Programme (Housing Strategy and Homelessness Strategy)
- (vii) Licensing Policy
- (viii) The Budget (Budgetary Framework)
- (ix) Capital Programme (Budgetary Framework)
- (x) Corporate Strategy or Plan
- (xi) Asset Management Plan
- (xii) Capital Strategy (Budgetary Framework)
- (xiii) Treasury Management Strategy and Policy (Budgetary Framework)
- (xiv) Equal Opportunities Policy
- (xv) Personnel Policies and Strategies
- (xvi) Corporate Governance Policies and Strategies
- (xvii) Local Area Masterplan
- (xviii) Environmental Policy
- (xix) Risk Management Strategy and Policy
- (xx) Procurement Strategy
- (xxi) Corporate Governance Code
- (xxii) Medium Term Financial Plan (Budgetary Framework)

3.2 The process by which the policy framework shall be developed is:-

- (1) The Cabinet will publicise by including in the published forward plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of

those initial proposals. The Chairmen of Overview and Scrutiny Committees will also be notified. The consultation period shall in each instance be not less than 6 weeks.

- (2) At the end of that period, the Cabinet will then draw up draft proposals having regard to the responses to that consultation. If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up its proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (3) Where the Cabinet has submitted a draft plan or strategy comprising part of the policy framework to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 4 below.
- (4) Before the Council:-
 - (a) amends the draft plan or strategy
 - (b) approves, for the purposes of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (c) adopts (with or without modification) the plan or strategy, it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (5) Where the Council gives instructions in accordance with paragraph 4 above, it must specify a period of at least five working days, beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-
 - (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy") with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration, or

- (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (6) When the period specified by the Council, referred to in paragraph 5, has expired, the Council must when:-
- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
 - (b) approving, for the purposes of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement which the Leader submitted to the Council, or informed the Council of, within the period specified.

4. Decisions outside the Budget or Policy Framework

- 4.1 Subject to the provisions of paragraph 6 below (virements) the Cabinet, committees of the Cabinet (if any), individual Members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 5 below.
- 4.2 If the Cabinet, committees of the Cabinet (if any), individual Members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

5. Urgent decisions outside the Budget or Policy Framework

- 5.1 The Cabinet, a committee of the Cabinet (if any), an individual Member of the Cabinet or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget

approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (a) if it is not practical to convene a quorate meeting of the full Council;
and
- (b) if the Chairman of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Overview and Scrutiny Committee the consent of the Mayor or in the absence of both the relevant Chairman and the Mayor, the Deputy Mayor, will be sufficient.

- 5.2 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6. Virement

- 6.1 Steps taken by the Cabinet, a committee of the Cabinet (if any), an individual Member of the Cabinet or officers, area committees or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads in accordance with the procedures detailed in Financial Regulations. Beyond such limits approval to any virement across budget heads shall require the approval of Council.

7. In-year changes to Policy Framework

- 7.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet (if any), an individual Member of the Cabinet or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:-
 - (a) which will result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;
 - (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance;
 - (c) in relation to the policy framework which would normally be agreed by the Council following consultation, but are required because the existing policy document is silent on a matter under consideration.

8. Call-in of decisions outside the Budget or Policy Framework

- 8.1 Where an Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- 8.2 In respect of functions which are the responsibility of the Cabinet, where;
- (a) the Monitoring Officer's report and/or Chief Finance Officer's report concludes that the decision was not a departure from the budget or policy framework, the report shall go to the Cabinet and to the relevant Overview and Scrutiny Committee.
 - (b) the Monitoring Officer's report and/or Chief Finance Officer's report concludes that the decision is contrary to or not wholly in accordance with the budget or policy framework, the report shall go to the Cabinet with a copy to every Member of the Council.

Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's/Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure. For the avoidance of doubt decisions shall not be deemed to be a departure where they are urgent decisions taken in accordance with paragraph 4 above.

- 8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting it will receive a report from the Cabinet of the decision or proposal and the advice of the Monitoring Officer and/or Chief Finance Officer. The Council may either:
- (a) endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way and the decision implemented;
- or
- (b) amend the Council's Financial Regulations, having regard to advice from the Council's Section 151 Officer, or policy concerned to encompass the decision or proposal of the body responsible for that

executive function and agree to the decision with immediate effect. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way and the decision be implemented;

or

- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

This page is intentionally left blank

PART 4 (SECTION D)

CABINET PROCEDURE RULES

Contents

Subject	Page
1. How does the Cabinet Operate?	1
2. How are Cabinet Meetings Conducted?	5

CABINET

1. HOW DOES THE CABINET OPERATE?

1.1 Taking Executive Decisions

The Leader may discharge the executive functions of the Council or he/she may provide for any executive functions of the Council to be discharged by:-

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an officer of the authority;
- (d) an individual member of the Cabinet
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority

1.2 Appointments and Delegation of Executive Functions by the Leader

1.2.1 At the Annual Meeting of the Council, the Leader will present to the Council the names of the Members appointed to the Executive by the Leader (including the Executive Member who is appointed as Deputy Leader) and their portfolios.

1.2.2 Either at the Annual Meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of

- (i) the detailed remits of the portfolios of the Executive Members ;
- (ii) any delegations made by the Leader in respect of the discharge of executive functions. The document presented by the Leader to the Monitoring Officer will contain the following information about the discharge of the Council's executive functions in relation to the coming year:

- The extent of authority of the Executive as a whole;
- The extent of any authority delegated to individual Executive Members, including details of any limitation on their authority
- The terms of reference and constitution of such committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- The nature and extent of any delegation of executive functions to Area Committees, or any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- The nature and extent of any delegation to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- 1.3.1 Where the Leader delegates an executive function to the Executive then unless the Leader directs otherwise, the Executive may delegate further to a committee of the Executive or to an officer.
- 1.3.2 Where the Leader delegates an executive function to a committee of the executive or an individual member of the Executive then unless the Leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to an officer.
- 1.3.3 Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.
- 1.3.4 Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.4 The Council's Scheme of Delegation and Executive Functions

- 1.4.1 The Leader may amend the Scheme of Delegation containing the details required in Article 7 and set out in Part 3 of this Constitution insofar as it relates to executive functions at any time during the year in accordance with the procedure set out below..

- (a) Where the Leader wishes to delegate the discharge of an executive function that has not previously been delegated

- to an officer; or
- to the Executive; or
- to a Committee of the Executive; or
- to a member of the Executive

the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the Monitoring Officer .

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the delegation of the executive function is entered into the Register of the Delegation of the executive Functions and will report the new delegation to Council at the earliest opportunity.

- (b) Where the Leader wishes to transfer the discharge of an executive function that has been previously delegated
- from one officer to another officer; or
 - from one officer to the Executive, a Committee of the Executive, or a Member of the Executive; or
 - from the Executive to an officer, a Committee of the Executive or a Member of the Executive; or
 - from a Committee of the Executive to an officer, the Executive or a member of the Executive; or
 - from a Member of the Executive, to an officer, the Executive, or a Committee of the Executive

then in each case the Leader must give written notice to the person or body from whom the exercise of the executive function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

The Monitoring Officer will ensure that a record of the transfer of the executive function is entered into the Register of the Delegation of Executive Functions.

- (c) Where the Leader wishes to withdraw the delegation of an executive function that has been delegated to either
- an officer; or
 - the Executive; or
 - a Committee of the Executive; or
 - a Member of the Executive

and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the Monitoring Officer. The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the withdrawal of the executive function is entered into the Register of the Delegation of Executive Functions.

1.5 Conflicts of Interest

- 1.5.1 Where any Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution;
- 1.5.2 If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member of the Cabinet, or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 1.5.3 In particular there should be:-
- Early disclosure of any interest
 - A written record identifying the nature of the interest
 - If a 'prejudicial interest' arises the Member should withdraw and not exercise functions in relation to that matter.

1.6 Arrangements for Cabinet Meetings

- 1.6.1 The Cabinet will meet at least 6 times a year on dates and at times to be set by the Council. The Cabinet and Cabinet Committees (if any) shall meet at the Council's main offices or another location to be agreed. If the Council does not fix the dates and times of meetings, the Cabinet/Cabinet Committee shall do so.
- 1.6.2 If the date and time of the first ordinary meeting of the Cabinet has not been fixed by the Council or the Cabinet, the Leader of the Council may fix the date and time.
- 1.6.3 The Leader of the Council, after consultation with the Chief Executive and appropriate Members of other groups represented in the Cabinet, shall have power to change the dates, times and venues of any meetings of the Cabinet. The same provisions shall apply to meetings of Cabinet Committees.
- 1.6.4 The Leader of the Council or the Chairman of a Cabinet committee may call a special meeting of the Cabinet/Cabinet Committee at any time, after consultation with the Chief Executive and appropriate Members of other groups represented on the Cabinet/Cabinet Committees.

1.7 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be one third of the total number of Members of the Cabinet, or 4, whichever is the larger.

1.8 How are decisions to be taken by the Cabinet?

- 1.8.1 Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.
- 1.8.2 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside and if he/she is not present then a person appointed by those present shall preside.

2.2 Casting Vote

In the event of an equality of votes the Leader or in his/her absence the person appointed to preside shall have a second or casting vote.

2.3 What Business?

At each meeting of the Cabinet the following business will be conducted:-

- (i) to receive apologies for absence
- (ii) approval of the minutes of the last meeting;
- (iii) declarations of interest, if any;
- (iv) answer any written questions received from Members of the public no later than 5 p.m. two clear working days before the day of the meeting.
- (v) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (vi) consideration of reports or recommendations from Overview and Scrutiny Committees; and
- (vii) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the

Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Questions by the public

- 2.4.1 Members of the public may ask questions of the Leader or any Cabinet member at ordinary meetings of the Cabinet. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 5 p.m. two clear working days before the day of the meeting. Each question must give the name and address of the questioner and must identify to whom it is to be put. Questions must be written as succinctly as possible. Answers to questions submitted by the public will be made available to the questioner four working hours prior to the commencement of the meeting.
- 2.4.2 No person or organisation may ask more than one question at any one meeting. The Chief Executive may reject a question if it:-
- (i) does not relate to a matter of general interest; or
 - (ii) does not relate to a matter for which the Council has responsibility or which affects the interests of the Borough; or
 - (iii) relates exclusively to an individual grievance or personal issue;
 - (iv) or is defamatory, offensive or frivolous;
 - (v) or is substantially the same as a question which has been put at a meeting of the Cabinet within the previous six months;
 - (vi) or requires the disclosure of exempt or confidential information.
- 2.4.3 Any person whose question is rejected in accordance with 2.4.2 above will be informed in writing including the reasons for rejection.
- 2.4.4 Questions will be asked in the order in which notice of them was received. The Leader will invite the questioner to put the question to the Cabinet member named in the notice. The questioner must read out the question in person, unless prevented from doing so by a physical or mental disability or infirmity. Questions must be put strictly in the form in which it was submitted.
- 2.4.5 A questioner who has put a question in person may also put one supplementary question without notice to the Cabinet member who has replied to his or her original question. A supplementary question must arise directly out of the original question or reply.

2.5 Urgent Business

The Leader (or the Member presiding) may accept any item, which is considered to be urgent on the agenda.

2.6 Consultation

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.7 Who can put items on the Cabinet agenda?

- 2.7.1 The Chief Executive will advise the Leader of items which, in his/her opinion, need to be considered at the Cabinet and will submit a draft list of items to the Leader for consideration.
- 2.7.2 Any Member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Proper Officer will comply.
- 2.7.3 In addition, the Proper Officer will make sure that an item is placed on the agenda for the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
- 2.7.4 The Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call a meeting of the Cabinet in order to consider the matter.
- 2.7.5 Subject to (a) above, the Leader (or in his/her absence the Cabinet Member who is to preside at the relevant Cabinet meeting) in consultation with other Members of the Cabinet and the Chief Executive, will decide on the final form of the agenda for each Cabinet Meeting.

2.8 Attendance at Meetings of the Cabinet

- 2.8.1 Non-Cabinet Members may speak on appropriate subjects (for example matters concerning their Ward or *on areas of particular expertise* *) at the discretion of the Leader (or person presiding).
- 2.8.2 Chairmen of Overview and Scrutiny Committees (or their representatives) shall be entitled to present reports and recommendations emanating from their Committees.
- 2.8.3 No substitutes are allowed at Cabinet meetings.

- 2.8.4 Rules 1 – 11 of the Access to Information Rules apply where the Cabinet is taking a key decision. All Cabinet meetings are held in public and therefore the press and public will only be excluded when it is likely that confidential or exempt information would be disclosed.

2.9 Recording of Meetings

- 2.9.1 Members of the public are entitled to report on meetings of the Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means :-

- Filming, photographing or making an audio recording of proceedings at a meeting;
 - Using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or
 - Reporting or providing commentary on proceedings at a meeting, orally or in writing, so the report or commentary is available as the meeting takes place or later if the person is not present.
- 2.9.2 Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.
- 2.9.3 Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.
- 2.9.4 For meetings held in the Municipal Buildings, members of the public are welcome to use the Council's Wi-Fi facilities, which can be accessed by selecting 'onlincolnshire' from the list of available networks on your device. You must ensure that you have enabled Wi-Fi on your device. Occasionally, meetings may take place in venues not operated by the Council and in such circumstances members of the public are advised to check with the venue whether Wi-Fi is available.
- 2.9.5 In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.

PART 4 (SECTION E)

OVERVIEW AND SCRUTINY PROCEDURE RULES

Contents

Subject	Page
1. Constitution of the Overview and Scrutiny Committee	1
2. Who may sit on the Overview and Scrutiny Committee?	1
3. Co-optees	1
4. Meetings of the Overview and Scrutiny Committee	1
5. Quorum	1
6. Who Chairs Overview and Scrutiny Committee Meetings?	1
7. Work Programme	2
8. Agenda Items	2
9. Policy Review and Development	2
10. Reports from the Overview and Scrutiny Committee	2
11. Making sure that Overview and Scrutiny Reports are considered by the Cabinet	3
12. The Rights of Overview and Scrutiny Committee Members to documents	4
13. Members and Officers giving account	4
14. Attendance by Others	4
15. Call-in of Executive Decisions	4
16. Councillor Call for Action	7
17. The Party Whip	9
18. Procedure at Overview and Scrutiny Committee Meetings	9

1. Constitution of the Overview and Scrutiny Committee

1.1 The Council will appoint the Overview and Scrutiny Committee as set out in Article 6 of Part 2 of this Constitution.

1.2 Such Committees may appoint sub-committees and may appoint advisory panels. Such sub-committees and panels may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

2. Who may sit on the Overview and Scrutiny Committee?

2.1 All Councillors (except Members of the Cabinet) may be Members of the Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

3.1 The Overview and Scrutiny Committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

4. Meetings of the Overview and Scrutiny Committee

4.1 The Council shall determine at the Annual Meeting the timetable of meetings of the Overview and Scrutiny Committee and there shall be at least 8 ordinary meetings of the Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the Overview and Scrutiny Committee, by any 5 Members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. Quorum

5.1 The quorum for the Overview and Scrutiny Committee meeting shall be five Members of the Committee.

6. Who Chairs Overview and Scrutiny Committee Meetings?

6.1 The Chairman and Vice-Chairman of the Overview and Scrutiny Committee will be drawn from among the Councillors sitting on the Committee, and subject to this requirement the Council will appoint such persons as it considers appropriate. Sub-committees and working parties may appoint a Councillor to chair their meetings.

7. Work Programme

- 7.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account recommendations from the Council and the Cabinet.

8. Agenda Items

- 8.1 Any Member of an Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- 8.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report within six weeks of receiving it.

9. Policy Review and Development

- 9.1 (a) The role of the Overview and Scrutiny Committee 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 (see Section 3, Part 4).
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee or its sub-committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. The Committee may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from the Overview and Scrutiny Committee

- 10.1 (a) Once it has formed recommendations on proposals for policy development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework.)

- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

11. Making sure that Overview and Scrutiny reports are considered by the Cabinet

- 11.1 (a) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. The reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet deliberations on a substantive item on the agenda) within six weeks of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader – with notice that the matter is to be referred to Council. The Cabinet will have up to 6 weeks in which to respond to the Overview and Scrutiny Committee report and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the proposals.
- (c) Where the Overview and Scrutiny Committee (or sub-committee) prepares a report for consideration by the Cabinet in relation to a matter where the Leader or Council has delegated decision making power to another Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, they shall serve a copy on the Proper Officer and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.

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

12. The Rights of Overview and Scrutiny Committee Members to documents

- 12.1 (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. Members and Officers giving account

- 13.1 The Overview and Scrutiny Committee (or sub-committee) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the Leader, any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performance.

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

14. Attendance by others

- 14.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraphs 2 & 3 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

15. Call-in of Executive Decisions

- 15.1 (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published including where possible by electronic means, and

shall be available at the main offices of the Council normally within 2 working days of being made.

Members of the Overview and Scrutiny Committee will be sent copies of the published decision within the same timescales, by the person responsible for publishing the decision.

- (b) The notice of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless it is “called-in” under these rules.
- (c) During the period in (b), any four non-executive Members may sign and give written notice (a “call-in notice”) to the Proper Officer, specifying the grounds and requesting a meeting of the Overview and Scrutiny Committee to review the decision.
- (d) The grounds for call-in may be any one or more of the following:
 - (i) Inadequate consultation prior to the decision being made;
 - (ii) Absence of evidence for the decision;
 - (iii) The decision is contrary to the Council’s policy framework; or
 - (iv) The decision is contrary to or not wholly in accordance with the Council’s budget.
- (e) On receipt of a properly completed call-in notice the Proper Officer shall summon a meeting of the Overview and Scrutiny Committee on the date provisionally scheduled in the Council programme of meetings for call-in. Where, in exceptional circumstances, the relevant Cabinet Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within 10 working days of the receipt of the call-in notice. The Proper Officer shall notify the signatories to the call-in notice and the decision-taker(s) of the date, time and place of the meeting, which is to consider the called-in decision.
- (f) The Members who signed the call-in notice shall have the right to attend the meeting of the Overview and Scrutiny Committee and to explain their reasons for giving the notice. The decision-taker(s) shall have the right to attend the same meeting to explain the decision and respond to the call-in notice. Where appropriate, officers may be invited to advise the Committee.
- (g) The Overview and Scrutiny Committee, in considering whether to call-in a decision, may:-

- (i) determine that the decision should not be called-in, in which event the decision of the Cabinet will take effect; or
 - (ii) refer the matter back to Cabinet for further reconsideration setting out in writing the nature of its concerns; or
 - (iii) refer the matter to Full Council for debate.
- (h) If the decision-taker(s) has/have been requested to reconsider the called-in decision, they shall, within ten working days, then take into account the concerns expressed and shall reconsider the called-in decision. The Chairman of the Overview and Scrutiny Committee or his/her representative shall be entitled to attend that meeting of the Cabinet to explain the views of the Committee on that decision. If the original decision is to be confirmed the decision-taker(s) shall adopt it as a final decision. Such final decisions may not be subject to this call-in procedure and may be implemented.
- (i) If, having considered the referred called-in decision, the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council's request. Where the decision is made by an individual, the individual will reconsider within 10 working days of the Council's request.
- (j) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of either the Council or the public. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service and his/her nominee's consent shall be required.

- (k) An urgent decision is one which, were there be a delay, would result in some form of loss, hardship or detriment to the Council or a person or body outside the Council.
- (l) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

Review

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. Councillor Call for Action (CCfA)

- 16.1 Any Member of the Council can refer to the Overview and Scrutiny Committee any 'local government matter' which is relevant to the functions of that Committee.
- 16.2 "Local government matter" means - any matter relating to the functions of the authority which affect the Member's area or any individual who lives or works in that area which is not an excluded matter"
- 16.3 If a Member wishes to refer a Councillor Call for Action to the Overview and Scrutiny Committee they must complete the approved Councillor Call for Action pro-forma and submit this to Democratic Services.
- 16.4 The Lead Officer in conjunction with the Chairman of the Overview and Scrutiny Committee will assess whether the Councillor has completed the necessary checklist and if so will place the request on the agenda for the next meeting. Where approval for inclusion on the agenda is unlikely because the criteria have not been met, the Chairman will liaise with the Member raising the Call for Action. If there is disagreement the Call for Action will be submitted to Committee for determination.
- 16.5 Prior to considering the request, Members of the Overview and Scrutiny Committee will first confirm that the call for action is valid and meets the criteria in the checklist.
- 16.6 The Member raising the call for action will then be asked to present in person the issue before the Committee. Should the Member be unable to attend then they may request another Councillor from their ward to present on their behalf. If no ward Councillor is able to be present the Committee will defer the item to a future meeting. The presentation should include an indication of what they would see as a satisfactory resolution
- 16.7 Members will then consider the call for action and agree what they will do to resolve the issue. This may include calling witnesses (including portfolio holders, officers or external representatives).
- 16.8 Having considered and resolved the call for action as agreed the Committee will report the outcome to the Member raising the call for action.
- 16.9 The matter should not be being separately considered by another local authority.
- 16.10 **Guidance for Members on CCfA**

Councils must make arrangements for the CCfA in order to comply with the requirements of the Local Government and Public Involvement in Health Act 2007, and the Police and Justice Act 2006.

The Councillor Call for Action (CCfA) is a mechanism whereby individual ward Councillors can bring forward issues of local concern relating to 'a local government matter' for consideration by overview and scrutiny. Section 21(10) b of the Act says that a local government matter is a matter which 'affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area'. Under the Representation of the People Act an "electoral area" is, in this context at least, a ward. So it does actually need to be the Councillor's own ward.

However, the Councillor Call for Action is seen as a last resort, and the Councillor bringing forward the action should have exhausted all other possibilities to resolve the issue, prior to bringing it to scrutiny.

At Boston Borough Council CCfAs will be considered by the Overview and Scrutiny Committee. Any Boston Borough Council elected Member can bring a call for action, but must first complete a checklist to be submitted to Democratic Services. A copy of the checklist is attached at Appendix 1, and flow chart detailing the procedure is attached at Appendix 2.

When completing the checklist Members should take into account the following points:

1. Excluded matters:
 - (a) Planning appeals, licensing appeals and all other areas where a person has an alternative avenue to resolve an issue, through the Council's complaints process.
 - (b) Any matter that is vexatious, that is likely to cause distress, disruption or irritation, without any proper or justified cause. If a CCfA is considered vexatious clear reasons as to why this is the case will be provided to the ward Councillor.
 - (c) Matters that are discriminatory, that is something that specifically excluded a particular sector the community on the grounds of age, race, gender, sexual orientation, disability, religion or belief.
 - (d) Any matter which it is not reasonable for discussion at the Overview and Scrutiny Committee. This is likely to also be vexatious.
2. No CCfAs will be considered during the election period.
3. A CCfA will not be accepted if it is already on the Overview and Scrutiny work programme..
4. You will need to provide full details of what you have done already to try to resolve the issue, to demonstrate that you have exhausted all other avenues. Examples of this might be that they have engaged in discussions in the community, contacted other agencies, and discussed the matter with officers.
5. You will need to suggest how you would anticipate the matter has reached resolution. For example it may be that resolution is seen as the Scrutiny

Committee referring the matter to the Cabinet for consideration, holding the portfolio holder to account, or requesting an officer report.

6. The matter must be of genuine local concern within your ward.

17. The Party Whip

- 17.1 (a) The DETR Guidance views whipping as incompatible with Overview and Scrutiny.
- (b) When considering any matter in respect of which a Member of the Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

A Party whip is "Any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the council or any Committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."

18. Procedure at Overview and Scrutiny Committee meetings

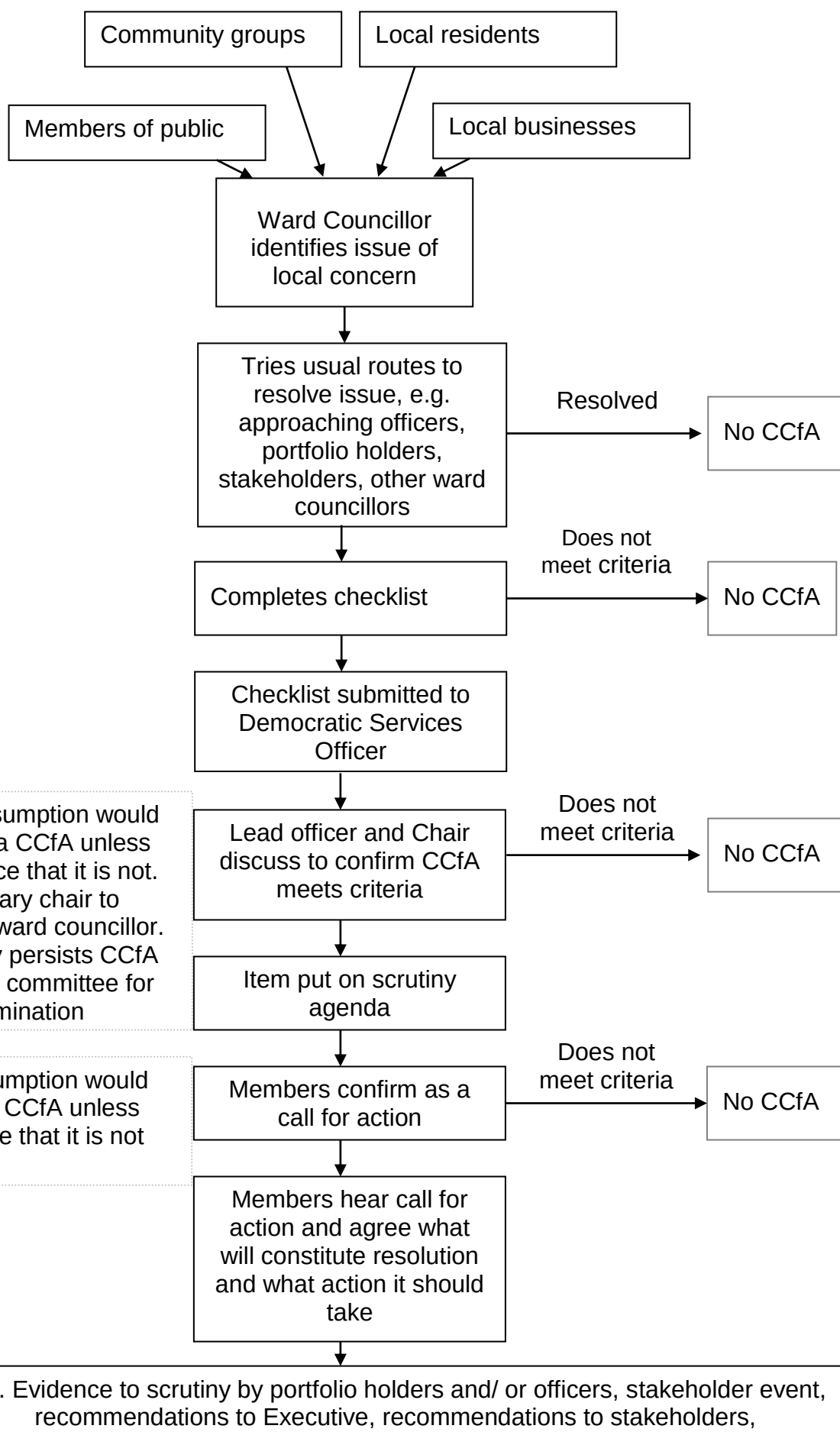
- 18.1 (a) The Overview and Scrutiny Committee and its sub-committees shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
 - iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee (or Sub-Committee) shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

CHECKLIST

This form is to be completed by all councillors bringing forward a Councillor Call for Action

ISSUE (Subject of Call for Action):	Yes / No
PART 1: Is the issue eligible as a CCfA?	
Does the matter refer to an individual?	
Is it a quasi-judicial matter (e.g. planning or licensing)?	
Is the issue of genuine local concern (please provide details)?	
Does it refer to a matter within your electoral area	
Is the matter vexatious or discriminatory (ie is it likely to cause distress, disruption or irritation without proper or justified cause?)	
Additional information in support of answers:	
PART 2: What have you/others already done to resolve the issue?	
Has the issue been discussed at ward level with all ward councillors?	
Has the ward councillor discussed the issue with the Portfolio Holder, officers, or relevant partners?	
Has the matter previously been discussed at another meeting of council Members, or the LSP?	
Is the matter already on a scrutiny committee work programme or full council agenda for debate?	
Has the matter already been the subject of recent debate (<i>within the last six months</i>) at a scrutiny committee or full council	
Have significant new evidence/concerns been identified since the last debate if within last six months?	
Please provide details to support your answers:	
PART 3: What do you want to get out of the CCfA/what would you consider as a resolution to the issue?	
Profile raised through debate at scrutiny following evidence from officers or portfolio holder	
Scrutiny debate involving external stakeholders	
Recommendations made to Executive	
Other (please give details)	

FLOW CHART FOR COUNCILLOR CALL FOR ACTION



This page is intentionally left blank

PART 4 (Section F)

Officer Employment Procedure Rules

Officer Employment Rules

These rules deal with the appointment and dismissal of, and disciplinary action against staff.

Staff Appointments, Dismissals and Disciplinary Action

Subject to specific provision relating to Chief Officers, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Authority must be discharged, on behalf of the Authority, by the Officer designated as the Head of the Authority's Paid Service or by an Officer nominated by him.

This shall not apply to the appointment, dismissal of or disciplinary action against Chief Officers namely:

- Head of Paid Service (Chief Executive)
- Monitoring Officer (Corporate Director)
- Chief Finance Office (Corporate Director)

Procedure for Recruitment and Appointment

(i) General Provisions Relating to Recruitment and Appointment

(a) Declarations:

- (i) The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent (in law), grandparent, partner (civil), child, stepchild, adopted child, grandchild, brother (in law), sister (in law), uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking Support for Appointment:

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.
- (iii) Recruitment of Head of Paid Service and Chief Officers.

- (ii) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
 - (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as it is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (I) to be sent to any person on request.

The Chief Officer Employment Panel will be responsible for recruitment and appointment of Chief Officers and will be advised by the Head of Service with responsibility for Human Resources.

(iii) Appointment of Head of Paid Service

- (a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Employment Panel.

(iv) Appointment of Chief Officers

- (a) "Chief Officers" means those Officers specified in the Council's Constitution namely the Chief Executive (Head of Paid Service), Chief Finance Officer (Corporate Director) and Monitoring Officer (Corporate Director).
- (b) Chief Officers will be appointed by the Chief Officer Employment Panel. The Panel has delegated authority to make such appointments other than in the case of the Head of Paid Service where the appointment must be approved by the Council.

Appointments below Chief Officer

- (a) Appointments below Chief Officer shall be the responsibility of the Head of Paid Service, relevant Chief Officer or their nominated deputy.
- (b) In the case of Deputy Chief Officers, Chief Officers may consult Members on such appointments, but are not required to do so.

Other Appointments

- (a) Officers below Deputy Chief Officer. Appointment of Officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Chief Officer to whom the Officer will report or his/her nominee. Such appointments must not be made by Councillors.
- (b) Assistants to Political Groups. Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

Disciplinary Action / Dismissal

Councillors will not be involved in disciplinary action or dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Deputy Chief Officers will be subject to the same disciplinary procedures as apply to other members of staff.

Dismissal of Chief Officers

Matters relating to redundancy, permanent ill-health, expiration of fixed term contracts and/or grievances will be dealt with under established local policies and processes. The Chief Officer Employment Panel will normally be involved in any such decisions however if this is for the post of Head of Paid Service (Chief Executive), Full Council would be expected to approve such a decision.

Disciplinary Action for Chief Officers

Any decision to take disciplinary action against or to dismiss any employee of the Borough Council shall be in line with the Council's Disciplinary Policy subject to statutory provisions contained in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

No action may be taken by the Chief Officer Employment Panel - except for suspension - relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No 881) and as set out below. Any such suspension shall be on full pay and terminate no later than the expiry of two months from the day on which the suspension takes effect unless the Committee has directed that it may continue beyond that period for good reason.

Where there is a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer, such dismissal must be approved by the Council and only following consideration of those matters and any views or advice from an Independent Panel required under The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No.881). In the case of the Borough Council the 'Statutory Officers Panel'.

Statutory Officers Panel

1. In the following paragraphs:-

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “Chief Finance Officer”, “disciplinary action”, “Head of the Authority’s Paid Service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “Independent Person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “Local Government Elector” means a person registered as a Local Government Elector in the register of electors in the Authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a Committee appointed by the Authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the Authority on matters relating to the dismissal of relevant Officers of the Authority;
- (f) “relevant meeting” means a meeting of the Authority to consider whether or not to approve a proposal to dismiss a relevant Officer; and
- (g) “relevant Officer” means the Chief Finance Officer, Head of the Authority’s Paid Service or Monitoring Officer, as the case may be.

2. A relevant Officer may not be dismissed by the Authority unless the procedure set out in the following paragraphs is complied with.
3. The Authority must invite relevant independent persons to be considered for appointment to the Statutory Officers Panel, with a view to appointing at least three such persons to the Panel along with four Elected Members selected on a political proportionality basis.
4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the Authority or, where there are fewer than two such persons, such independent persons as have been appointed by another Authority or Authorities as the Authority considers appropriate.
5. Subject to paragraph 6, the Authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order:-
- (a) a relevant independent person who has been appointed by the Authority and who is a Local Government Elector;

- (b) any other relevant independent person who has been appointed by the Authority;
 - (c) a relevant independent person who has been appointed by another Authority or Authorities.
- 6. An Authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
- 7. The Authority must appoint any Panel at least 20 working days before any relevant meeting of the Authority where dismissal may be considered.
- 8. Before the taking of a vote at the relevant meeting of the Authority on whether or not to approve such a dismissal, the Authority must take into account, in particular:-
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusion of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant Officer.
- 9. Any remuneration, allowances or fees paid by the Authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.
- 10. The Panel will normally receive advice from the Head of Service with responsibility for Human Resources.

Terms upon the cessation of employment

In respect of any potential dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Chief Officer Employment Panel will refer the matter to the Statutory Officers Employment Advisory Panel. The Panel may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise them on any action to be taken. That Panel will thereafter make a recommendation to the Council for consideration, including any terms for cessation of employment as set out below, thereby enabling the Council to have regard at the same time to any further advice or views of the Panel established in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 (No 881) and the outcome of the aforementioned investigation and any views from the relevant Chief Officer.

In any case of dismissal of any Chief Officer the Panel will determine and make recommendations to the Council whether any payments should be made. Such payments will only be made:

- (a) In circumstances where compensation is justified (for example on the grounds of redundancy); and
- (b) In accordance with statutory regulations and guidance; and
- (c) In accordance with the Council's employment policies including the policy statement on employer severance and pension discretions allowed under the Local Government Pension Scheme; and/or
- (d) Where they comply with the specific term(s) of a Settlement Agreement.
- (e) In making recommendations the Committee shall take account of any data, advice, evidence or views collected from appropriate sources, including the Council's Head of Service with responsibility for Human Resources, National and/or Regional Employers' Organisations, independent external pay data and submissions made by the Association of Local Authority Chief Executives on behalf of their members.

Statement of Pay Policy

A statement of the Council's Pay Policy will be published annually.

This page is intentionally left blank

**BOSTON BOROUGH COUNCIL
FINANCIAL PROCEDURES**

Contents Page	Page No.
1. Introduction	3
2. Financial Management and Planning	4
3. Accounting Policies.....	5
4. Accounting Records and Returns	6
5. Annual Statement of Accounts	7
6. Performance Plans	8
7. Budgeting – Format of budget	9
8. Budget Bids and Savings Targets	9
9. Revenue Budgets and Medium Term Planning.....	10
10. Budget monitoring and control	12
11. Resource allocation.....	13
12. Supplementary Estimates.....	14
13. Capital programme	15
14. Scheme of virement.....	16
15. Maintenance of Reserves	17
16. Internal controls.....	17
17. Risk Management	18
18. Insurances	20
19. Internal audit	20
20. External Audit.....	22
21. Preventing fraud and corruption.....	22
22. Security of Assets.....	23
23. Inventories	26
24. Stocks and Stores.....	27
25. Imprest accounts (petty cash).....	28

26.	Intellectual property	29
27.	Asset disposal.....	29
28.	Valuation for rating	30
29.	Council tax.....	31
30.	Treasury Management.....	31
31.	Staffing	33
32.	Financial systems and procedures	34
33.	Income.....	36
34.	Banking arrangements and cheques	38
35.	Ordering and paying for work, goods and services	38
36.	Contracts	42
37.	Payments to employees and members.....	44
38.	Taxation	46
39.	Trading Accounts	467
40.	External Partnerships.....	47
41.	External funding.....	49
42.	Work for third parties (including other Local Councils)	50
43.	Summary of Limit or Control.....	52

BOSTON BOROUGH COUNCIL

FINANCIAL PROCEDURES

1. Introduction

Boston Borough Council is committed to providing good quality services to the residents of its area.

To conduct its business efficiently and effectively Boston Borough Council needs to ensure that it has a sound financial management framework in place.

These financial procedures provide the framework for managing Boston Borough Council's financial affairs. They apply to every elected Member, officer of the Council and anyone acting on its behalf.

These procedures identify the financial responsibilities of the Council, Cabinet, Overview and Scrutiny Committee, Corporate Management Team and Managers.

All elected members and staff have a general responsibility to ensure that they provide for the security of the assets under their control, for ensuring that the use of those assets is legal and properly authorised and demonstrates efficient and effective use, resulting in achieving value for money and best value.

Why Are Financial Procedures Important

Financial procedures form part of the Council's overall approach to corporate governance and provide a control framework through which the Chief Executive, Monitoring Officer and Section 151 Officer/Deputy Section 151 Officer carry out their statutory duty on behalf of Boston Borough Council.

Section 151 of the Local Government Act 1972, states "... every Local Authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs". The Council has designated the Section 151 Officer/Deputy Section 151 Officer to be the officer so responsible.

Section 114 of the Local Government Finance Act 1988, requires the Section 151 Officer/ Deputy Section 151 Officer to report on unlawful or potentially unlawful expenditure or a course of action likely to cause loss or deficiency.

In these Procedures:-

- "Appropriate officer" means a member of the Corporate Management Team of the Council.
- "Council" means the Board which implements the Policy Framework and the Budget of the Council under the Terms of the Constitution.
- Any reference in these Procedures to the masculine gender shall be read as equally applicable to the female gender.
- Any reference in these Procedures to the Corporate Management Team (CMT) shall be to the Chief Executive and such Officers as the Chief Executive deems to be part of CMT
- Any reference in these Procedures to "Member Forum" shall include the Council, the Cabinet, Regulatory Committees, Overview and Scrutiny Committees, and all Sub-Committees.

- Any reference to Budget Manager refers to an officer of the Council with responsibility for managing a budget.

2. Financial Management and Planning

Why is it important?

All staff and members have a responsibility to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls which are in place to ensure that those standards are met.

Key controls

The key controls and control objectives for financial management standards are:

- their promotion throughout the Council; and
- a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Full Council.

Responsibility of the Section 151 Officer/Deputy Section 151 Officer

To ensure the proper administration of the financial affairs of the Council.

To determine the financial management standards and financial policies and to monitor their compliance.

To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

To ensure that all grants and subsidies to which the Council is entitled are claimed and received.

To ensure the compilation and certification of all statistical and other information of a financial nature required by any Government Department or other agency;

To ensure the Council's Annual Accounts are prepared and signed, and shall, by the statutory deadline each year, prepare a Statement of Accounts to be reviewed by the Audit and Governance Committee in accordance with best practice.

To ensure the preparation of the Council's Revenue Budgets and Capital Programme.

To ensure that there is an effective budgetary control system implemented and adhered to.

To approve the appropriate Council Taxbase, and recommend to Cabinet and Council the level of Council Tax for each year.

To ensure quarterly reports are submitted to the Cabinet regarding Revenue and Capital Expenditure and Income.

To ensure Contract Procedure Rules, and these Financial Procedures, together set out the requirements which must be followed in all financial matters.

To make arrangements to be informed by each appropriate officer of any matters which may adversely affect the financial affairs of the Council before any commitment is incurred and before reporting the matter to the appropriate Member Forum.

To ensure all accounting procedures and financial records are maintained to support the above requirements and determine and approve such procedures and records.

To report quarterly to the Cabinet any instance of non-compliance with these Procedures as may be considered necessary.

Responsibility of Officers of the Council

To promote the financial management standards set by the Section 151 Officer/ Deputy Section 151 Officer in their service units, and to monitor adherence to the standards and practices within their own areas, liaising as necessary with the Section 151 Officer/ Deputy Section 151 Officer.

To promote sound financial practices in relation to the standards, performance and development of staff in their service units.

Responsibility of Cabinet

All of the Council's finances shall be regulated, co-ordinated and controlled by the Cabinet of the Council, subject to ratification by the Council, where appropriate.

3. Accounting Policies

Why is this important?

The Section 151 Officer/ Deputy Section 151 Officer is responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the relevant CIPFA Accounting Code of Practice.

Key Controls

The key controls for accounting policies are:

- systems of internal control are in place that ensure that financial transactions are lawful;
- suitable accounting policies are selected and applied consistently;
- proper accounting records are maintained; and
- financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts which is prepared at 31 March each year.

Responsibility of Budget Managers

To adhere to the accounting policies and guidelines approved by the Section 151 Officer/ Deputy Section 151 Officer.

4. Accounting Records and Returns

Why is this important?

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual Accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the Accounts are prepared properly and that proper accounting practices have been followed, and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

Key Controls

The key controls for accounting records and returns are:

- all Cabinet Members, finance staff and budget managers operate within the required accounting standards and timetables;
- all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- procedures are in place to enable accounting records to be reconstituted in the event of a systems failure;
- reconciliation procedures are carried out to ensure transactions are correctly recorded; and
- prime documents are retained in accordance with legislative and other requirements.

Responsibility of the Section 151 Officer/Deputy Section 151 Officer

To determine the accounting procedures and records for the Council.

To arrange for the compilation of all accounts and accounting records under his direction.

To comply with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums, from the duty of collecting or disbursing them; and
- employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

To make proper arrangements for the audit of the Council's Accounts in accordance with the Accounts and Audit Regulations 2011 (and any subsequent amendments).

To prepare, obtain approval, and publish the audited Accounts of the Council for each financial year, in accordance with the statutory timetable.

To ensure the proper retention of financial documents in accordance with the requirements set out in the document retention schedule.

To ensure that all claims for funds including grants are made by the due date.

Responsibility of Budget Managers

To consult and obtain the approval of the Section 151 Officer/Deputy Section 151 Officer before making any changes to accounting records and procedures.

To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

To carry out regular reconciliations to ensure the integrity of embedded financial systems and to ensure transactions are correctly recorded.

To supply all information required to enable the Section 151 Officer/ Deputy Section 151 Officer to authorise grant claims (any return with financial information must be completed in conjunction with Financial Services).

To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Section 151 Officer/ Deputy Section 151 Officer.

5. Annual Statement of Accounts

Why is this important?

The Council has a statutory responsibility to produce an annual Statement of Accounts.

Key Controls

The key controls for the annual Statement of Accounts are that:

- the Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Section 151 Officer/ Deputy Section 151 Officer; and
- the Council's Statement of Accounts must be prepared in accordance with proper practices as set out in the relevant CIPFA Code of Practice on Local Authority Accounting in the United Kingdom
- the Audit and Governance Committee is responsible for approving the statutory audited annual Statement of Accounts.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To select suitable accounting policies and apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the code of practice.

To sign and date the Statement of Accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.

To draw up the timetable for Final Accounts preparation, and to advise staff and external auditors accordingly.

Responsibility of Budget Managers

To comply with accounting guidance provided by the Section 151 Officer/Deputy Section 151 Officer and to supply the Section 151 Officer/ Deputy Section 151 Officer with information when required.

6. Performance Plans

Why is this important?

It is good practice for the Council to prepare and publish performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

Key controls

The key controls for performance plans are to:

- ensure that all relevant plans are produced and that they are consistent with each other;
- produce plans in accordance with statutory requirements;
- meet the timetables set;
- ensure that all performance information is accurate, complete and up to date; and
- provide improvement targets which are meaningful, realistic and challenging.

Responsibility of the Chief Executive

To ensure the development of corporate and service targets and objectives and performance information.

To ensure that systems are in place to measure activity and collect accurate information for use as performance measures.

To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

Responsibility of Budget Managers

To contribute to the development of performance plans in line with statutory requirements.

To contribute to the development of corporate and service targets and objectives and performance information.

To develop service targets and objectives and performance information.

7. Budgeting – Format of budget

Why is this important?

The format of the budget determines the level of detail to which financial control and management will be exercised. The format of the budget shapes how the rules around virement and cash limits operate, and sets the level at which funds may be re-allocated within budgets.

Key controls

The key controls for the budget format are:

- complies with all legal requirements;
- complies with the relevant CIPFA Accounting Code of Practice; and
- reflects the accountability of service delivery.

Responsibility of the Section 151 Officer/Deputy Section 151 Officer

To advise the Cabinet on the format of the budget that is approved by the full Council.

Responsibility of Budget Managers

To comply with accounting guidance provided by the Section 151 Officer/ Deputy Section 151 Officer.

8. Budget Bids and Savings Targets

Why is it important?

Budget bids are the process by which funding is granted to develop and enhance existing Services, or introduce new services or projects. Savings targets are the process by which the Council will seek to balance its budget, in line with statutory requirements.

Key controls

The key controls are:

- Council approved budget bid form/savings initiative form to be completed
- Approval is ultimately given by the Council.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To ensure that Heads of Service have the appropriate documentation and guidance to allow them to submit a bid for additional funding.

To ensure that the budget bids are scored using the approved scoring mechanism, given a priority rating and submitted to CMT and Cabinet.

To include successful budget bids in the revenue budget and/or capital programme as appropriate.

To ensure that savings targets are set, and communicated, to enable officers to prepare plans to deliver reductions in resources, and are approved by the appropriate member forum.

Responsibility of Corporate Management Team

To consider the budget bids and savings projects provided by Officers following the work of the appropriate officers as specified below.

Responsibility of Budget Managers

To prepare submissions for consideration in accordance with the agreed format.

Responsibility of Performance Review & Governance Panels

To scrutinise the proposed additional/reduced expenditure, including review of the priority categorisation allocated, where appropriate.

Responsibility of Cabinet

To select the budget bids and savings projects to be included in the Council's overall revenue and capital programme.

9. Revenue Budgets and Medium Term Planning

Why is it important?

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable resources to be allocated in accordance with the Council's main aims and corporate priorities. The budget is the financial expression of the Council's plans and policies.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans), are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Council to budget for a deficit on its General Fund Revenue Account.

Medium term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium term plan. This ensures that the Council is always preparing for events in advance. The Council's process of service delivery planning should be prepared in accordance with the advice of the Section 151 Officer/ Deputy Section 151 Officer on the financial activities of the Council.

Key controls

The key controls are:

- specific budget approval for all expenditure;
- budget managers prepare in liaison with Finance staff, the base budget position for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered; and
- a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

To determine the detailed form of revenue estimates and the methods for their preparation, after consultation with the Cabinet, Corporate Management Team and Heads of Service.

To prepare and submit reports to the Cabinet on the aggregate spending plans of units and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium term implications of spending decisions (five years).

To encourage best use of resources and value for money by working with the Corporate Management Team and Budget Managers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise the full Council on Cabinet proposals in accordance with his responsibilities under Section 151 of the Local Government Act 1972.

Responsibility of Corporate Management Team

To consider the detailed revenue estimates provided by the Section 151 Officer/ Deputy Section 151 Officer following the work of the appropriate officers as specified below.

Responsibility of Budget Managers

To prepare estimates of income and expenditure, in consultation with the Section 151 Officer/ Deputy Section 151 Officer, to be submitted to the Cabinet.

In consultation with the Section 151 Officer/ Deputy Section 151 Officer and in accordance with the laid down procedures and timetable to prepare detailed draft revenue and capital budgets for consideration.

To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Section 151 Officer/ Deputy Section 151 Officer in accordance with the full Council's general directions.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

To have regard to:

- spending patterns and pressures revealed through the budget monitoring process;
- legal requirements;
- policy requirements as defined by the full Council in the approved policy framework; and
- initiatives already underway when drawing up draft budget requirements.

Responsibility of Overview & Scrutiny Committees

To scrutinise the proposed budgets.

Responsibility of Cabinet

To recommend to Council the overall revenue and capital programmes.

10. Budget monitoring and control

Why is this important?

Budget management ensures that once the budget has been approved by full Council, resources allocated are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continuous process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit approved when setting the overall budget.

To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or 'cost' centre, additional budgetary control may take place at a more detailed level if this is required.

Key controls

The key controls for managing and controlling the revenue budget are:

- budget managers should be responsible only for income and expenditure which they can influence;
- there is a nominated budget manager for each cost centre heading;
- budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- budget managers follow an approved certification process for all expenditure;
- income and expenditure is properly recorded and accounted for;
- performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; and
- all officers responsible for committing expenditure comply with relevant guidance and financial regulations.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To establish an appropriate framework of budgetary management and control which ensures that:

- budget management is exercised within annual cash limits unless the full Council agrees otherwise;
- each officer has available timely information on receipts and payments on each budget that is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- expenditure is committed only against an approved budget head; and
- significant variances from approved budgets are investigated monthly and reported quarterly to the Cabinet.

To administer the Council's scheme of virement.

To submit reports to the Cabinet and to full Council, in consultation with the relevant service Budget Manager, where an officer is unable to balance expenditure and income within existing approved budgets under his/her control.

To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

Responsibility of Budget Managers

To maintain budgetary control within their service, in adherence with the key controls stated above and to ensure that all income and expenditure is properly recorded and accounted for.

To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Budget Manager. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making which commits expenditure.

To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

To ensure compliance with the scheme of virement.

Responsibility of Corporate Management Team

In consultation with the Section 151 Officer/ Deputy Section 151 Officer, to ensure prior approval by the full Council or Cabinet (as appropriate) for new proposals of whatever amount, which:

- create financial commitments in future years;
- change existing policies, initiate new policies or cease existing policies; or
- materially extend or reduce the Council's services.

To agree with the relevant Budget Manager where it appears that a budget proposal, including a virement proposal, may impact materially on another Budget Manager's level of service activity.

11. Resource allocation

Why is this important?

A disparity often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil needs/desires. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Key controls

The key controls for resource allocation are that resources are:

- acquired in accordance with the law and using an approved authorisation process;
- used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- securely held for use when required; and
- used with the minimum level of waste, inefficiency or loss for other reasons.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to budget managers.

Responsibility of Budget Managers

To work within budget limits and to utilise resources allocated and further allocate resources in the most efficient, effective and economic way, demonstrating value for money.

To identify opportunities to minimise or eliminate resource requirement or consumption without a detrimental effect on service delivery.

12. Supplementary Estimates

Why is this important?

There are occasions when additional requests for funding are made by Budget Managers which cannot be contained within the resources allocated.

Key Controls

- specific approval by Corporate Management Team in consultation with the Section 151 Officer/ Deputy Section 151 Officer up to £50,000
- specific approval by Cabinet for amounts up to £500,000
- specific approval by Full Council, following Cabinet consideration, for all amounts over £500,000.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To review requests from Heads of Service, and seek explanations for the unexpected expenditure requirement.

To prepare reports to the Cabinet and Full Council on the supplementary estimate required. These should include references to the mechanism by which the supplementary expenditure will be funded.

Responsibility of Budget Managers

To explore all avenues open to the Council to avoid unnecessary expenditure.

To consult with the Section 151 Officer/ Deputy Section 151 Officer on the matters behind the reason for requesting a supplementary estimate.

13. Capital programme

Why is this important?

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create financial commitments for the future in the form of revenue running costs and in some instances financing costs.

The Government introduced the Prudential control regime, releasing its previously more strict control on the financing capacity of the Council. However, capital expenditure should still form part of the Council's investment strategy and should be carefully prioritised in order to maximise the benefit of the available resources.

Key controls

The key controls for capital programmes are:-

- De minimus level for capital expenditure of £10,000 for land and buildings and £5,000 for plant, vehicles and equipment.
- specific approval by the full Council of the annual programme for capital expenditure;
- a scheme and estimate, including capital bid form, progress targets and associated revenue expenditure are prepared for each capital project, for approval by the Cabinet via the Capital Working Group (CWG);
- approval by the Cabinet where capital schemes are to be financed up to £500,000, and subject to the approval of full Council where the expenditure exceeds this amount;
- the development and implementation of the asset management plan;
- accountability for each element of the capital programme is accepted by a named manager; and
- monitoring of progress in conjunction with expenditure and comparison with approved budget.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To prepare and submit reports to the Cabinet on the projected expenditure, income and other resources compared with the approved estimate.

To issue guidance concerning capital projects and controls. The definition of 'capital' will be determined by the Section 151 Officer/ Deputy Section 151 Officer, having regard to Government regulations and accounting requirements.

Responsibility of Budget Managers

To comply with guidance for capital projects and controls issued by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all capital proposals have undergone a project appraisal and are submitted to CWG.

To undertake an assessment of the capital bids following priority scoring, before submission to Cabinet and Overview and Scrutiny Committee.

To prepare regular reports reviewing the capital programme provisions for their services, including preparation of a monthly return of the estimated final cost of projects in the approved capital programme in conjunction with Finance staff.

To ensure that adequate records are maintained in respect of all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme.

14. Scheme of virement

Why is it important?

The scheme of virement is intended to enable the Cabinet and budget managers to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council. Virement is the switching of resources (budget) between approved estimates of expenditure. For the purposes of this scheme, a 'budget' is considered to be a line in the Council's approved budget book.

Key Controls

Key controls in relation to the scheme of virement are:

- it is administered by the Section 151 Officer/ Deputy Section 151 Officer within guidelines set by full Council.
- the overall budget is agreed by the Cabinet and approved by the full Council, allowing budget managers authorisation to incur expenditure in accordance with the estimates that make up the budget.
- virement does not create additional budget capacity. Budget Managers are expected to exercise their discretion in managing their budgets responsibly and prudently.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To approve amounts of £10,000 to £50,000.

To prepare jointly with the budget manager a report to the Cabinet where virements in excess of £50,000 are proposed.

Responsibility of Budget Managers

A Budget Manager may exercise virement on budgets under his/her control for amounts up to £10,000 on any one budget head during the year, following approval by the Head of Service or Director.

Amounts greater than £10,000 and less than £50,000 require the approval of the Section 151 Officer or Deputy Section 151 Officer. Amounts greater than £50,000 and below £500,000 require the approval of the Cabinet, following a joint report by the Section 151 Officer/ Deputy Section 151 Officer and the Head of Service, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year.

It is the responsibility of each appropriate officer to expend his budget allocation economically, efficiently and effectively.

Budget managers should avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources.

Budget managers must plan to fund such commitments from within their own budgets. Virement that is likely to impact on the level of service activity of another Budget Manager should be implemented only after agreement with the relevant Budget Manager.

No virement relating to a specific financial year should be made after 31 March in that year. Where an approved budget is a 'lump sum' budget or reserve intended for allocation during the year, its allocation will not be treated as a virement for reporting purposes, provided that the amount is used in accordance with the purposes for which it has been established.

Responsibility of Cabinet

To approve all virements between £50,000 and £500,000.

Above this amount will require Full Council approval.

15 Maintenance of Reserves

Why is this important?

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. A general reserve (or working balance) is maintained as a matter of prudence. It enables the Council to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Key Controls

To maintain reserves in accordance with the relevant CIPFA Accounting Code of Practice.

For each reserve established, the purpose, usage and the basis of transactions should be clearly identified.

- specific approval by Corporate Management Team in consultation with the Section 151 Officer/ Deputy Section 151 Officer up to £50,000
- specific approval by Cabinet for amounts up to £500,000
- above this amount will require Full Council approval

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To advise the Cabinet and/or full Council on prudent levels of reserves for the Council to hold, and to take account of advice from the external auditor in this matter.

16. Internal controls

Why is this important?

The Council requires internal controls to manage and monitor progress towards the main aims and corporate priorities.

The Council has statutory obligations to meet, and therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations;
- reliable financial information and reporting;
- compliance with laws and regulations; and
- risk management.

Key controls

Key controls and control objectives for internal control systems are:

- key controls should be reviewed on a regular basis;
- managerial control systems including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; and
- an effective internal audit function which is properly resourced. It should operate in accordance with current best practice (including guidance from the Financial Reporting Council's Audit and Assurance team, and CIPFA) and with any other statutory obligations and regulations.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibility of Budget Managers

To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

To review existing controls in the light of changes affecting the Council and establish and implement new ones in line with guidance from the Section 151 Officer/ Deputy Section 151 Officer.

To ensure staff have a clear understanding of the consequences of a lack of control.

17. Risk Management

Why is this important?

The Council faces risks to people, property and continued operations. Risk is the chance of something going wrong. It is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well being of the organisation. In essence it is therefore an integral part of good business practice.

Risk management is concerned with evaluating the measures an organisation has in place already to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Audit and Governance Committee to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the Council.

Key controls

The key controls for risk management are:

- Audit and Governance Committee to receive quarterly updates on risks.
- procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council;
- a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on an ongoing basis;
- managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- provision is made for losses that might result from the risks that remain;
- procedures are in place to investigate claims within required timescales ;
- acceptable levels of risk are determined and insured against where appropriate; and
- the Council has prepared a business continuity plan for implementation in the event of disaster which results in significant loss or damage to its resources.
- The Council has prepared service delivery plans for implement in the event of a disaster which results in significant loss or damage to its resources.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To develop risk management controls in conjunction with other Heads of Service.

Responsibility of Corporate Management Team and Heads of Service.

To include all appropriate employees of the Council in a suitable fidelity guarantee insurance policy.

To effect insurance cover, through external insurance, internal funding, and negotiate all claims in consultation with other officers where necessary.

To notify the risk manager immediately of any loss, liability or damage which may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.

To take responsibility for risk management having regard to advice from the risk manager and other specialist officers of the Council (e.g. Health and Safety), as well as external organisations (e.g. Crime Prevention, Fire Prevention).

To ensure that there are regular reviews of risk within their service units.

To notify the Finance Section promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurances.

To consult the Section 151 Officer/ Deputy Section 151 Officer and the Monitoring Officer on the terms of any indemnity which the Council is requested to give.

To ensure that Council employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of any insurance claim.

18. Insurances

Why is this important?

Insurance is one of the processes that can be put in place to minimise the loss of the Council following a process of risk management.

Key controls

The Section 151 Officer shall effect all insurance cover and negotiate all claims in consultation with other officers, where necessary.

Named individuals of the Council shall be included in a suitable fidelity guarantee insurance.

Responsibility of the Section 151 Officer

The Section 151 Officer/Deputy Section 151 Officer shall, at such period as is considered necessary, review all insurances in consultation with the appropriate officers.

Responsibility of Budget Managers

Appropriate officers shall give prompt notification to the Finance Section of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.

Appropriate officers shall forthwith notify the Finance Section, in writing, of any loss, liability or damage, or any event likely to lead to a claim.

Appropriate officers shall consult the Section 151 Officer with respect to the terms of any indemnity which the Council is requested to give.

19. Internal audit

Why is this important?

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations require that a "relevant body shall maintain an adequate and effective system of internal audit of the accounting records and of its systems of internal control".

Internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key controls

The key controls for internal audit are:

- that it is independent in its planning and operation;
- the auditors have direct access to the Chief Executive, all levels of management and directly to elected members;
- the internal auditors comply with relevant guidance issued by the Financial Reporting Council's Audit and Assurance team, and CIPFA;
- enter the Council premises or land at any reasonable time;
- access all assets, records, documents, correspondence and control systems relating to the financial transactions of the Council;
- require and receive any information and explanation considered necessary concerning any matter under consideration;
- require any employee of the Council to produce and account for cash, stores or any other Council asset under his/her control;
- access records belonging to third parties, such as contractors when required;
- have direct access to the Chief Executive, the Cabinet and members;
- the approval of the strategic and annual audit plans which have been prepared by the chief internal auditor and which take into account the characteristics and relative risks of the activities involved; and
- ensuring that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibility for Budget Managers

To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets which the auditors consider necessary for the purposes of their work.

To ensure that auditors are provided with any information and explanations which they seek in the course of their work.

To consider and respond promptly to recommendations in audit reports. The contract conditions are that managers will respond in ten working days.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner, and within the self imposed timescales agreed in the action plan following any review.

To notify the Section 151 Officer/ Deputy Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Budget Manager should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the chief internal auditor, prior to implementation.

Responsibility of the Audit and Governance Committee

To undertake the functions specified in the Committee's Terms of Reference, as set out in the Council's Constitution.

20. External Audit

Why is this important?

As part of ensuring that public monies are properly accounted for and managed, an external audit regime is in place where the external auditor has rights of access to all documents and information which are necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. The Code of Audit Practice (to be produced and maintained by the National Audit Office from 1 April 2015, who will also provide supporting guidance to auditors) sets out the auditor's objectives to review and report upon:

- the audited body's financial statements; and
- whether the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The Council's annual Statement of Accounts is examined by external auditors, who must be satisfied that the Statement of Accounts presents a true and fair view of the financial position of the Council and its income and expenditure for the year in question, and complies with the legal requirements.

Key controls

External auditors are now appointed following a tender process, normally for a minimum period of five years. The Code of Audit Practice sets out the framework which external auditors follow when carrying out their audits.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To ensure there is effective liaison between external and internal audit.

To work with the external auditor and advise the full Council, Cabinet, Corporate Management Team and Heads of Service on their responsibilities in relation to external audit.

Responsibility of Budget Managers

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

To ensure that all records and systems are up to date and available for inspection.

21. Preventing fraud and corruption

Why is this important?

The Council will not accept fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud or corruption.

Key controls

Key controls regarding the prevention of financial irregularities are that:

- the Council has an effective anti-fraud corruption policy and maintains a culture which will not accept fraud or corruption;
- all members and staff act with integrity and lead by example;
- senior managers are required to deal promptly and in accordance with disciplinary policies with those who defraud or attempt to defraud the Council or who are corrupt;
- high standards of conduct are promoted amongst members by the standards committee;
- the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
- whistle blowing procedures are in place and operate effectively; and
- legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To maintain adequate and effective internal control arrangements.

To ensure that all suspected irregularities are reported to the Chief Internal Auditor, Chief Executive, and the Cabinet.

Responsibility of Corporate Management Team and Heads of Service

To ensure that all suspected irregularities are reported to the Audit Manager.

To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

To ensure that where financial impropriety is discovered, the Section 151 Officer/ Deputy Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

The Bribery Act 2010

Bribery is defined as the promising, requesting, offering, giving or accepting, directly or indirectly, of an inducement or reward that distorts the proper performance of any duty or behaviour required of the recipient of the offer or bribe, for example:-

- The taking or giving of a bribe to secure favourable treatment in the granting of a council service or contract
- The undue use of influence to procure a council service or contract. Under the Bribery Act 2010 bribery is a criminal offence for an employee to request, receive, agree to receive, promise, offer or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.

22. Security of Assets

Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in the delivery of services, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key controls

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are that:

- resources are used only for the purposes of the Council and properly accounted for;
- resources are available for use when required;
- resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- an asset register is maintained for the Council and assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset;
- all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies.
- all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act 1998 and software copyright legislation.
- appropriate officers shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under their control. They shall consult the Section 151 Officer/ Deputy Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- Keys to office premises, safes and similar receptacles, shall be securely kept in a place or manner approved by the appropriate officer.
- Each appropriate officer shall maintain a register of current keyholders.
- Each appropriate officer shall be responsible for agreeing limits for cash holding with the Director.
- Appropriate officers shall be responsible for ensuring that any office keys, identity cards, core keys etc., are obtained from any employee leaving the employment of his department at or before the time of leaving.
- In the event that an appropriate officer leaves the employment of the Council, the Section 151 Officer/ Deputy Section 151 Officer or his authorised representative, or the Chief Executive as appropriate, shall be responsible for ensuring that any keys, identity cards, core keys and the like are returned at or before the time of leaving.
- The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for the security of the Council's Information and Communication Technology (ICT) facilities in accordance with Data Protection Regulations and shall be consulted by any appropriate officer wishing to use any data thereon.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

Ensure that an asset register is maintained in accordance with good practice for land and property assets with a value in excess of £10,000 and plant, vehicles and equipment with a value in excess of £5,000. The function of the asset register is to provide the Council with information about fixed assets so that they are:

- safeguarded;
- used efficiently and effectively; and
- adequately maintained.

To receive information from each Budget Manager required for accounting, costing and financial records.

To ensure that assets are valued in accordance with the CIPFA Accounting Code of Practice.

Responsibility of Budget Managers

To maintain a property database, for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a unit or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of the use.

To ensure that lessees and other prospective occupiers of council land and/or buildings are not allowed to take possession or enter the land and/or buildings until a lease or agreement has been established, as appropriate.

To ensure the proper security of all buildings and other assets under their control.

To ensure that where land or buildings are surplus to requirements, a recommendation for the sale of land is the subject of a joint report by the relevant Director and Section 151 Officer/ Deputy Section 151 Officer.

To ensure that no Council asset is subject to personal use by an employee without proper authority.

To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.

To ensure assets are identified, their location recorded and that they are appropriately marked and insured.

To ensure cash holdings on premises are kept to a minimum and agreed with the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that keys to property, safes and similar receptacles are carried on the person of those responsible at all times and that there is a register of current key holders maintained.

To record all disposal or part exchange of assets, which should normally be by competitive tender or public auction, unless following consultation with the Section 151 Officer/ Deputy Section 151 Officer, the Cabinet agrees otherwise.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information

may be sensitive or privileged, or may possess some intrinsic value and its disclosure or loss could result in a cost to the Council in some way.

23. Inventories

Why is this important?

This is important to help safeguard the Council's assets. It is an extension to the Security of Assets part of these procedures.

Key controls

A complete physical check shall be carried out by the appropriate officer at least once a year.

A physical check against the inventory may be carried out by the Section 151 Officer/ Deputy Section 151 Officer or his representative at all reasonable times.

The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the appropriate officer concerned. Council property provided to individual officers or Members (e.g. Laptops and PC's for home use) must be controlled in a manner approved by the Section 151 Officer/Deputy Section 151 Officer and inventories noted accordingly.

Movement of inventory items between offices and, more especially, between employees must be recorded in the appropriate inventories.

Any material differences disclosed in an inventory shall be reported to the Section 151 Officer/ Deputy Section 151 Officer by the appropriate officer.

Property belonging to the Council which has been lost, stolen, damaged or destroyed and where the loss is not recoverable from insurance or other sources will require to be formally written off.

Up to a value of £5,000 this may be done by the Manager in consultation with the Section 151 Officer/ Deputy Section 151 Officer. Above this value, write-off is subject to approval by the Cabinet.

Responsibility of Budget Managers

Each appropriate officer shall:

Prepare and keep up-to-date an inventory in a form agreed by the Section 151 Officer for all departmental offices, depots, etc., of the Council, wherein shall be recorded an adequate description of moveable furniture, fittings and equipment, office machinery, plant and machinery and similar property belonging to the Council.

Maintain inventories and record an adequate description of furniture, fittings and equipment, plant and machinery.

Carry out an annual check of all items on the inventory in order to verify location, review, condition, and take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.

Make sure that property is only used in the course of the Council's business unless the Head of Service concerned has given permission otherwise.

Prepare reports, in conjunction with the Section 151 Officer/ Deputy Section 151 Officer on write-offs above £5,000 to the Cabinet.

24. Stocks and Stores

Why is this important?

This is important to help safeguard the Council's assets. It is an extension to the Security of Assets part of these procedures.

Key controls

Each appropriate officer shall be responsible for the care and custody of the stocks and stores in his department. Stocks and stores shall not be in excess of normal requirements, except in special circumstances, with the approval of the Cabinet.

The Section 151 Officer/ Deputy Section 151 Officer shall be entitled to receive from each appropriate officer such information as he requires in relation to stocks and stores for accounting, costing and financial records.

Where the value of any stock holding is deemed material, appropriate officers shall arrange for a continuous stock-taking to occur throughout the year, and a complete stock-take carried out at least once in every financial year, by someone other than the stock-keeper. As soon as possible after 31 March in each year, the appropriate officer shall submit to the Section 151 Officer/ Deputy Section 151 Officer a certificate as to the value of stock held at the end of that financial year. The appropriate officer shall maintain a record of all stock deficiencies and surpluses in a manner agreed with the Section 151 Officer/ Deputy Section 151 Officer. Any differences on this account may be the subject of a report to the Cabinet by the Section 151 Officer/ Deputy Section 151 Officer.

The appropriate officer, with the approval of the Section 151 Officer/ Deputy Section 151 Officer is authorised to dispose of by competitive tender or public auction or write-off obsolete stores and equipment or surplus scrap up to a value of £5,000. Disposals or write-offs in excess of this amount are subject to the approval of the Cabinet.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

The Section 151 Officer/ Deputy Section 151 Officer shall arrange for a terrier of all assets owned by the Council (including dwellings provided under the Housing Acts) to be maintained, recording the appropriate Service Area, purpose for which held, location, extent and plan reference, purchase details (e.g. Vendor, price, date), particulars of nature of interest and rents payable, particulars of tenancies granted and rents receivable.

Responsibility of Budget Managers

To make arrangements for the care and custody of stocks and stores in the unit.

To ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

To authorise or write-off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction unless, following consultation with the Section 151 Officer/ Deputy Section 151 Officer, the Cabinet decides otherwise in a particular case.

25. Imprest accounts (petty cash)

Why is this important?

Imprest Accounts are used for the purposes of defraying petty cash and other expenses.

Key controls

Imprest Accounts shall be maintained on a full reimbursement basis.

The level of the Imprest Account shall be determined by the Section 151 Officer/ Deputy Section 151 Officer after consultation with the appropriate officer.

No single payment shall exceed £10.00 without the prior consent of the Section 151 Officer/ Deputy Section 151 Officer. No income received on behalf of the Council may be paid into the Imprest Account.

Payments from the Imprest Account shall be limited to items of a minor nature.
Generally, payments that are petty cash in nature, will be made using the Council's procurement card.

All payments must, wherever possible, be supported by VAT receipts and certified by the appropriate officer.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To provide employees of the Council with cash imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

To approve the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically review the arrangements for the safe custody and control of these advances.

To reimburse imprest holders as often as necessary to restore the imprest but normally not more than monthly.

Responsibility of Budget Managers

To ensure that employees operating an imprest accounts:

- obtain and retain vouchers to support each payment from the imprest account, and where appropriate an official receipted VAT invoice must be obtained;
- make adequate arrangements for the safe custody of the account;

- produce upon demand by the Section 151 Officer/ Deputy Section 151 Officer, cash and **ALL** vouchers to the total value of the imprest amount;
- record transactions promptly;
- reconcile and balance the account at least monthly and ensure that reconciliation sheets are signed and retained by the imprest holder;
- provide the Section 151 Officer/ Deputy Section 151 Officer with a certificate of the value of the account held at 31 March each year;
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made; and
- on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer/ Deputy Section 151 Officer for the amount advanced to him/her.

26. Intellectual property

Why is this important?

Intellectual property is a generic term that includes inventions and writings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example the development of software. These are collectively known as intellectual property.

Key controls

- Income received from the sale of intellectual property should be banked in accordance with the Council's banking procedures.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To ensure that staff are aware of an employer's rights with regard to intellectual property.

Responsibility of Monitoring Officer

To provide a guidance sheet for the Council on the production of intellectual property.

27. Asset disposal

Why is this important?

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and regulations of the Council.

Prepare reports, in conjunction with the Section 151 Officer/Deputy Section 151 Officer on write-offs above £5,000 to Cabinet.

Key controls

Assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Council, and that the best price is obtained (with the duty to obtain best consideration, subject to the rules governing disposals at an undervalue), bearing in mind other factors such as environmental issues. Disposal should be by competitive tender or public auction, with the decision on the preferred route noted and retained. The Localism Act 2011 contains provisions that create potential controls on disposal, through the Community Right to Bid.

All assets disposed of over £10,000 must be treated as a Capital Receipt.
Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records, and to include the sale proceeds if appropriate.

Responsibility of Budget Managers

To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment, and to document decisions arising from that advice.

To ensure that income received for disposal of an asset is properly banked and returned to central resources.

28. Valuation for rating

Why is this important?

Non-domestic rates (often called business rates) are the way in which businesses and other occupiers of non-domestic property contribute towards the costs of local authority services.

The Council's role is to be responsible for ensuring that the rateable list maintained by the Valuation Office Agency is complete and up to date, working out the business rates bill, giving any reliefs that may be due, and for collecting the money.

Key controls

Department of Communities and Local Government - responsible for setting the overall government policy on local taxation.

Valuation Office Agency - assesses rateable values that are the basis for working out rates bills.

Valuation Tribunals - independent, judicial bodies that have power to deal with appeals relating to non-domestic rating (and Council tax)

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible to the Council for ensuring all rateable properties are included in the current Valuation List. The Section 151 Officer/ Deputy Section 151 Officer shall be authorised to sign agreements on behalf of the Council affecting the values of rateable properties.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for managing the Collection Fund in an efficient and effective manner.

29. Council tax

Why is this Important?

Council tax is the income received from residents to contribute towards the provision of services in the District. Council Tax came into effect on 1 April 1993. However, the process of valuing every domestic property in England and Wales for banding purposes started some time before this, and properties are banded according to what the VOA considers their value would have been on 1 April 1991. This means that recent sale prices are not necessarily a good guide to the correct band for a property for Council Tax purposes.

Key controls

The local Valuation Office of the Valuation Office Agency keeps a valuation list showing the valuation band of all properties in their area.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer and Head of Revenues and Benefits

The Section 151 Officer has delegated responsibility for setting the Council Tax base annually.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible to the Council for keeping and maintaining the Council Tax Valuation List and raising appropriate accounts to Council Taxpayers.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for managing the Collection Fund in an efficient and effective manner.

30. Treasury Management

Why is this important?

Millions of pounds pass through the Council's books each year. This has led to the establishment of Treasury Management codes of practice. These aim to provide assurances that the Council's money is properly managed and controlled in a way which balances risk with return, but with the overriding consideration being given to the security of the Council's investments.

Key controls

The Council shall adopt the key recommendations of CIPFA's *Treasury Management in the Public Services: Code of Practice* as follows:

The Council shall put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of its treasury management activities.

The Council's policies and practices shall make clear that the effective management of risk, having regard to return, is a prime objective of its treasury management activities.

The Council shall acknowledge that the pursuit of best value in treasury management and the use of suitable performance measures are valid and important tools for it as a responsible organisation to employ in support of its business and service objectives; and that within the context of effective risk management, its treasury management policies and practices will reflect this.

In order to achieve the above, the Council will:

- adopt a treasury management policy statement, as recommended in Section 6 of the Code,
- follow the recommendations in Section 7 of the Code concerning the creation of Treasury Management Practices (TMPs).
- create and maintain, as the cornerstones for effective treasury management:
 - a treasury management policy statement, stating the policies and objectives of its treasury management activities
 - suitable TMPs, setting out the manner in which it will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

The Council's Audit and Governance Committee shall receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year and an annual report after its close, in the form prescribed in its TMPs. Decisions on these reports will be received by Full Council.

The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer/ Deputy Section 151 Officer, who will act in accordance with the organisation's policy statement and TMP's and, as a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*."

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To arrange borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's treasury management policy statement and strategy.

To report on treasury management activities quarterly to the Cabinet.

To operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by full Council.

To effect all borrowings in the name of the Council.

To act as the Council's registrar of stocks, bonds and mortgages, and to maintain records of all borrowing of money by the Council.

Responsibility of Budget Managers

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures, or other enterprises without the approval of full Council, following consultation with the Section 151 Officer/ Deputy Section 151 Officer.

- Full Council – approve the Treasury Management and Investment Strategy and Treasury Outturn report
- Audit and Governance Committee – To make recommendation to Full Council on all matters of Treasury Management

31. Staffing

Why is this important?

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key controls

Key controls for staffing are that:

- an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
- procedures are in place for forecasting staffing requirements and cost;
- controls are implemented that ensure that staff time is used efficiently and to the benefit the Council; and
- checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

Head of Transformation

To ensure that the Section 151 Officer/ Deputy Section 151 Officer receives the latest staffing structure, on an ongoing basis.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To act as an advisor to Heads of Service on areas such as National Insurance and pension contributions as appropriate.

To ensure that all payments are correctly made to employees.

To ensure all deductions made are correctly allocated and accounted for and forwarded to appropriate bodies.

Responsibility of Budget Managers

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

To ensure that the staffing budget is correctly calculated in conjunction with the Finance staff.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To ensure that CMT are immediately informed if the staffing budget is likely to be materially over or under spent.

32. Financial systems and procedures

Why is this important?

Service units have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Service units are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered.

They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Section 151 Officer/ Deputy Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

Key controls

The key controls for systems and procedures are:

- basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- early warning is provided of deviations from target, plans and budgets that require management attention; and
- operating systems and procedures are secure.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To make arrangements for the proper administration of the Council's financial affairs, including to:

- issue advice, guidance and procedures for officers and others acting on the Council's behalf;
- determine the accounting systems, form of accounts and supporting financial records;
- establish arrangements for the audit of the Council's financial affairs;

- approve any new financial systems to be introduced; and
- approve any changes to be made to existing financial systems.

Managers with Responsibility for Finance and IT

To ensure that adequate back-up of financial systems and recovery procedures are in place.

Responsibility of Budget Managers

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed except in accordance with arrangements approved by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed;
- all processing is carried out in an accurate, complete and timely manner; and
- output from the system is complete, accurate and timely.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and minimise the risk of fraud or other malpractice.

To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

To ensure that systems are documented and staff trained in operations.

To consult with the Section 151 Officer/ Deputy Section 151 Officer before changing any existing financial system or introducing new financial systems.

To establish a scheme of delegation identifying officers authorised to act on the Budget Manager's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer/ Deputy Section 151 Officer, together with any subsequent variations.

To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off-site, or in an alternative location within the building.

To ensure that, where appropriate, computer systems are registered in accordance with the data protection legislation and that staff are aware of their responsibilities under that legislation.

To ensure that relevant standards and guidelines for computer systems issued by the Information Technology Manager are observed.

To ensure that computer equipment and software are protected from loss and damage through theft, vandalism etc.

To comply with the copyright, designs and patents legislation and, in particular, ensure that:

- only software legally acquired and installed by the Council's ICT Unit is used on its computers;
- staff are aware of legislative provisions; and
- in developing systems, due regard is given to the intellectual property rights section of these procedures.

33. Income

Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all of the income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts. Failing this, recording of the debt in the Council's debtor (sales) ledger system must be made.

Key controls

Key controls for income are:

- all income due to the Council is identified and charged correctly in accordance with an approved charging policy which is regularly reviewed;
- all income is collected from the correct person, at the right time using the correct procedures and the appropriate stationery;
- where possible, payment is made prior to a service being delivered;
- all money received by an employee on behalf of the Council is paid without delay to the Council's bank or post office account and properly recorded. The responsibility for cash collection should be separated from that:
 - for identifying the amount due; and
 - for reconciling the amount due to the amount received;
- effective action is taken to pursue non-payment within defined timescales;
- formal approval for debt write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in line with the document retention schedule; and
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- Cheques shall not be cashed out of money on behalf of the Council.
- No Officer shall give a receipt for money received on behalf of the Council on any form other than the official receipt form.
- Sums up to £5,000 may be written off by the appropriate Budget Manager, with the approval of the Section 151 Officer/Deputy Section 151 Officer.
- Write-offs in excess of £5,000, other than by reason of liquidation or bankruptcy, shall require the consent of the Cabinet.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection and banking reconciliation.

To advise on all aspects of controlled stationery and satisfy himself regarding the arrangements for their control.

To agree the write-off of bad debts up to £5,000 in each case and over £5,000 for cases of liquidation or bankruptcy, and to refer all other sums in excess of £5,000 to the Cabinet.

To ensure that appropriate accounting adjustments are made following write-off action.

Responsibility of Budget Managers

To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and review it regularly, in line with corporate policies.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To issue official receipts or maintain other documentation for income collection.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income, for the appropriate period.

To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

To ensure that income is paid fully and promptly, on the next working day at the latest, into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying in slips to provide an audit trail. At least weekly money collected and deposited must be reconciled to the bank account on a regular basis to ensure income is not used to cash personal cheques or other payments.

No deduction shall be made from income received.

To supply the Section 151 Officer/ Deputy Section 151 Officer with details relating to work done, goods supplied or services rendered or other amounts due, to enable the Section 151 Officer/ Deputy Section 151 Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this Budget Managers should use established performance management systems to monitor recovery of income and flag up areas of concern to the Section 151 Officer/ Deputy Section 151 Officer. Heads of Service or Budget Managers have a responsibility to assist the Section 151 Officer/ Deputy Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. Only up to approved levels of cash can be held on the premises.

To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.

To recommend to the Section 151 Officer/ Deputy Section 151 Officer all debts to be written off. Once raised, no debt may be cancelled except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

To notify the Section 151 Officer/ Deputy Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer/ Deputy Section 151 Officer and not later than 7 April.

34. Banking arrangements and cheques

Why is this important?

All arrangements with the Council's bankers shall be made by or under arrangements approved by the Section 151 Officer/ Deputy Section 151 Officer who shall be authorised to operate such banking accounts as he may consider necessary.

Key Controls

All cheques shall be ordered only on the authority of the Section 151 Officer/ Deputy Section 151 Officer, who shall make proper arrangements for their safe custody.

Cheques drawn on the Council's main banking accounts shall bear the facsimile signature of the Section 151 Officer/ Deputy Section 151 Officer or be signed by the Section 151 Officer/ Deputy Section 151 Officer or designated signatories.

Payments in excess of £30,000 shall be countersigned by two designated signatories and authorised by the Section 151 Officer/Deputy S151 Officer.

The Section 151 Officer/ Deputy Section 151 Officer shall submit quarterly to the Audit and Governance Committee a Statement of the Council's Cash Position.

35. Ordering and paying for work, goods and services

Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services can receive value for money in their purchasing arrangements. These procedures should be read in conjunction with the contract procedures.

General

Every officer and member of the Council has a responsibility to declare any links or personal interests which they may have with purchasers or suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council in accordance with appropriate codes of conduct.

Official orders must be in a form approved by the Section 151 Officer/ Deputy Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the Council except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions.

Verbal orders shall only be given in cases of emergency and these shall always be confirmed by an official order not later than the next working day.

Each order must conform to the guidelines approved by the full Council on the ordering and payments system. Standard terms and conditions must not be varied without the prior approval of the Section 151 Officer/ Deputy Section 151 Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

All official stationery will be obtained and controlled by user departments.

All accounts shall be certified by the respective Budget Manager.

All invoices, accounts and certificates due for payment shall be in the name of Boston Borough Council, except where by agreement the Council is acting as paymaster for an authorised agent of the Council.

Copy accounts and statements shall not normally be passed for payment.

VAT is only recoverable by the Council if a proper VAT invoice is made out in the name of the Council.

Invoices should be paid within 30 days, or other agreed period.

Each appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer of the names of those members of his staff authorised to initiate official orders, and the financial limit that applies before an order is referred back to him, in the computerised ordering system.

The Section 151 Officer/ Deputy Section 151 Officer shall be notified by each appropriate officer of the names of those members of staff authorised to sign the summary of orders raised, together with specimen signatures and initials. No officer shall sign any name other than his own, and facsimile signatures shall not be used.

In replacing the signing of an order, the signing of the summary of orders shall indicate that:-

- The goods or services are necessary for the discharge of responsibilities of the Council
- There is provision for the cost within the approved estimates or is otherwise approved in accordance with the Council's Financial Procedures.
- Financial Procedures, Contract Procedures and Standing Orders have been complied with.
- Increasing use of the Council's credit card facility does not remove the need for the rules and controls to be followed.

Key controls

The key controls for ordering and paying for work, goods and services are:

- all goods and services are ordered only by authorised officers and correctly recorded;
- all goods and services shall be ordered in accordance with the Council's code of practice for tenders and contracts;
- goods and services received are checked to ensure they are in accordance with the order;

- payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards;
- all payments are made to the correct person, for the correct amount and are properly recorded;
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period in accordance with the document retention schedule;
- all expenditure including VAT, is accurately recorded against the right budget; and
- in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Any use of the Council Credit Card will be in accordance with the Council's Procurement Card Policy. All cardholders must sign up to this Policy prior to Credit Card use.

The Council publishes payments over £250 in accordance with the Transparency Code and good practice.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To ensure that all of the Council's financial systems and procedures are sound and properly administered.

To approve the form of official orders, and associated terms and conditions.

To make payments from the Council's funds on the Budget Manager's authorisation that the expenditure has been duly incurred in accordance with financial regulations.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Budget Manager, which must include details of the value of work, retention money, amounts previously certified and amounts now certified within authorised limits.

Responsibility of Budget Managers

To ensure that the Council's electronic official order system is used for all goods and services.

To ensure that orders are only used for goods and services provided to the unit. Individuals must not use official orders to obtain goods or services for their private use.

To ensure that only those staff authorised by him/her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories.

To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:

- receipt of goods or services;

- that the goods and services have been inspected and found to be satisfactory;
- that the invoice has not previously been paid;
- that expenditure is legal and has been properly incurred and is within budget provision;
- that prices, discounts, credits and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
- that standing orders, financial procedures and Council resolutions have been complied with;
- correct accounting treatment of tax;
- the invoice is correctly coded;
- discounts have been taken where available; and
- that appropriate entries will be made in accounting records;
- that the account, in part or whole, has not previously been passed for payment and the payment has been recorded, or the order within the computerised ordering system;
- that the appropriate entries have been made in inventories or stores records.

To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. In every case a different officer from the person who processed the order should authorise the invoice.

To ensure that the service unit maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the chief internal auditor.

To ensure that the unit obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the guidelines and best practices which are in line with best value principles and contained in the Council's tendering and contracts procedures.

To utilise the purchasing procedures in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the code of practice on tenders and contracts and will cover:

- authorised officers and the extent of their authority;
- advertisement for tenders;
- procedure for creating, maintaining and revising a standard list of contractors;
- selection of tenderers;
- compliance with UK and EC legislation and regulations;
- procedures for the submission, receipt, opening and recording of tenders;

- the circumstances where financial or technical evaluation is necessary;
- procedures for negotiation;
- acceptance of tenders;
- the form of contract documentation;
- cancellation clauses in the event of corruption or bribery; and
- contract records.

To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer/ Deputy Section 151 Officer. This is to protect the Council against entering into unapproved credit arrangements and to ensure value for money is being obtained.

To notify the Section 151 Officer/ Deputy Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the accounts closedown timetable determined by the Section 151 Officer/ Deputy Section 151 Officer.

With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Section 151 Officer/ Deputy Section 151 Officer, the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub contractors' tax status.

To notify the Section 151 Officer/ Deputy Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

To ensure that all appropriate payment records are retained and stored for the defined period in accordance with the document retention schedule.

36. Contracts

(Please read in conjunction with the Contract Procedures)

Why is this important?

Contract payments are a large part of the Council's expenditure.

Key Controls

All contracts entered into by the authority shall be subject to the Council's Standing Orders, and every exception thereto shall be reported to the Cabinet with the reasons that justify the exception being made.

No tender shall be accepted or contract signed until the Section 151 Officer/ Deputy Section 151 Officer is satisfied with the financial standing of the contractor and there is provision in the Capital Programme and/or Revenue Estimates for the total estimated cost of the project.

Appropriate officers shall, prior to commitment to each new individual capital or revenue project exceeding £25,000, undertake an appraisal or appraisals which shall include the following:-

- Appraising the need for the expenditure and its priority, e.g. has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
- Defining the objectives of the purchase;
- Consider the risks associated with the purchase over its life and how to manage them;
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing or sourcing through ESPO, and collaboration with other purchasers;
- Consulting users as appropriate about the proposed procurement method, contract standards and also performance and user satisfaction monitoring;
- Selecting the most appropriate procurement method; and
- Consider the maturity of the market (local, regional and national) whether the contracting approach is likely to yield enough competition.

This shall form the basis for inclusion in either the revenue or capital programme. The appropriate officer shall ensure that the project details and design are adequate to satisfactorily initiate and complete the project.

No work on site shall be permitted and no payment shall be made on any contract until contract documentation in an approved form has been completed and deposited with the Monitoring Officer. Any variations or extras agreed on behalf of the Council shall be reported by the appropriate officer to the Section 151 Officer/ Deputy Section 151 Officer.

Payment on account to outside contractors shall be authorised only on a certificate signed by the appropriate officer or his authorised officer showing the total amount of the contract, the value of approved variations thereto, the value of work executed to date, retention money, amount paid to date, and the amount now certified.

A register shall be kept, in a form approved by the Section 151 Officer/ Deputy Section 151 Officer, of all contracts in which particulars of the contracts entered into by the Council and payments made under such contract shall be recorded.

Any exemption to Contract Procedure Rules will be reported to Cabinet on a quarterly basis.

Responsibility of Designated Engineer or Architect

The officer or outside Consultant designated as Engineer or Architect in any contract for building, civil engineering, or mechanical installations shall be the officer responsible for the issue of all interim and final certificates or for the issue of variation orders provided that the Section 151 Officer/ Deputy Section 151 Officer shall have a reasonable opportunity, prior to the issue of the final certificates, for auditing the contract accounts. Every variation in any contract shall be authorised in writing by the appropriate officer or a duly authorised officer.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

The Section 151 Officer/ Deputy Section 151 Officer shall be informed of any variation considered essential in the exercise of professional judgement or other circumstances which, after allowing for contingencies already encountered, increases the total authorised amount of the contract. To ensure any variation to provide non-essential modifications or extras to the contract or specification which will increase the amount payable shall be subject to the prior approval of the Cabinet.

To ensure claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Section 151 Officer/ Deputy Section 151 Officer for consideration of the Authority's legal liability and for financial consideration before settlement is reached.

Responsibility of Budget Managers

Where contract completion is delayed beyond the contract period the appropriate officer shall take action in respect of any claim for liquidated damages and report on the matter to the Cabinet.

The appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer in writing at practical completion of the contract so that any performance bond can be released.

The appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer in writing on satisfactory completion of the maintenance period under a contract so that any retention money can be released.

The appropriate officer shall, where a contract for works, goods or services is to be placed and is known to be in value above £25,000, obtain at least three written quotations.

The appropriate officer shall ensure that tendering procedures are in accordance with those in existence for all contracts.

37. Payments to employees and members

Why is this important?

Staff costs are one of the largest items of expenditure for the Council's services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and accord with an individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that member allowances are authorised in accordance with the scheme adopted by the full Council.

Key controls

The key controls for payments to employees and members are that:

- appointments of employees shall be made in accordance with the approved establishments, grades and rates of pay, conditions of employment and subject to budget provision;
- proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - starters
 - leavers
 - variations
 - enhancements and that payments are made on the basis of timesheets or claims;
- frequent reconciliation of payroll expenditure against approved budget and bank account;
- all appropriate payroll documents are retained and stored; and
- Inland Revenue regulations are complied with.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees in accordance with procedures prescribed by him/her, on the due date.

To authorise any requests for advance payments of salaries,

To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

To make arrangements for the payment of all travel and subsistence claims or financial loss allowance.

To make arrangements for paying members travel or other allowances upon receiving the prescribed form duly completed and authorised.

To provide advice and encouragement to secure the payment of salaries and wages by the most economical means.

To ensure that there are adequate arrangements for administering superannuation matters on a day to day basis.

To complete all Inland Revenue returns regarding PAYE

Responsibility of Head of Transformation

To notify Chief Executive of appointments, dismissals, resignations, suspensions, secondments, transfers.

Changes in remuneration other than normal increments.

All information necessary to maintain records of service or superannuation, income tax, national insurance, and other deductions and additions.

Responsibility of Budget Managers

To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scales of pay, and that adequate budget provision is available.

To notify the Head of Transformation and the Section 151 Officer/ Deputy Section 151 Officer of all appointments, terminations, or variations which may affect the pay or pension of an employee or former employee.

To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees;
- payments are only made where there is a valid entitlement;
- conditions and contracts of employment are correctly applied; and
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

Employee payments are processed only through the payroll system. Heads of Service should give careful consideration to the employment status of individuals employed on a "self employed consultant or sub contract" basis. The Inland Revenue applies a tight definition for employee status and in cases of doubt; advice should be sought from the Head of Transformation.

To certify travel and subsistence claims and other allowances on a monthly basis.

Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications.

To ensure that the motor insurance policy of any officer required to use their vehicle on Council business shall cover the official use of the vehicle in the service of the Council.

Officers in receipt of car allowances shall, on request, produce such policy and/or premium receipts as may be necessary.

To ensure that the details of any employee benefits in kind are notified to the Section 151 Officer/ Deputy Section 151 Officer to enable full and complete reporting within the income tax self assessment system.

To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self employed or are employed by a recognised staff agency.

To ensure that all appropriate payroll documents are retained and stored.

Responsibility of Members

To submit claims for travel and subsistence allowances on a monthly basis and, in any event, within one month of the year-end.

Payments in respect of Travelling and Subsistence to Members of the Council will be made by the Chief Executive upon receipt of the prescribed form, duly certified by the Member.

Claims should be made within three months of the event giving rise to the claim. The payment of Basic and Special Responsibility Allowances will be made monthly by the Chief Executive directly into the Member's bank account. This will occur automatically unless the Member renounces claim to the Allowances.

38. Taxation

Why is this important?

The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key controls

The key controls on taxation are:

- budget managers are provided with relevant information and kept up-to-date on tax issues;
- budget managers are instructed on required record keeping;
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- records are maintained in accordance with instructions; and
- returns are made to the appropriate authorities within the stipulated timescale.

Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To complete a monthly return of VAT inputs and outputs to Her Majesty's Revenue & Customs (HMRC).

To provide details to the Inland Revenue regarding the Construction Industry Tax Deduction Scheme.

Responsibility of Managers

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with Her Majesty's Revenue & Customs (HMRC) Regulations. Guidance can be obtained from Financial Services, and the use of a VAT professional.

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements.

39. Trading Accounts

Why is this important?

Trading accounts have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

Responsibility of the Appropriate Officer

To advise on the establishment and operation of trading accounts.

Responsibility of Budget Managers

To observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and an annual report in support of the final accounts.

To ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

To ensure that each trading services area prepares an annual business plan.

40. External Partnerships

Why is this important?

The distinctive role of the Council is one of leadership to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes. Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well being of the area. The Council can work in partnership with others - public agencies, private companies, community groups and voluntary organisations.

The Council can mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. The Council is measured by what it achieves, in partnership with others.

General

The main reasons for entering a partnership are:

- to provide new and better ways of delivering services to our residents;
- the desire to find new ways to share risk;
- the ability to access new resources; and
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- a body whose nature or status gives it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others;
- acting as a project funder or part funder; or
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities to:

- be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- act in good faith at all times and in the best interests of the partnership's aims and objectives;
- be open about any conflict of interests which might arise;
- encourage joint working between themselves and promote the sharing of information, resources and skills between public, private and community sectors;
- hold confidentially any information received, as a result of partnership activities or duties, that is of a confidential or commercially sensitive nature; and
- act wherever possible as ambassadors for the project.

Key controls

The key controls for Council partners are to:

- if appropriate, be aware of their responsibilities under the Council's financial procedures and the contract procedures;
- ensure risk management processes are in place to identify and assess all known risks;
- ensure project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To advise on effective controls to ensure that resources are not wasted.

To advise on the key elements of funding a project. These include:

- a scheme appraisal for financial viability both in the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues; and
- audit, security and control requirements.

To ensure that the accounting arrangements are satisfactory.

Responsibility of Budget Managers

To maintain a register of all contracts entered into with external bodies

To ensure that before entering into agreements with external bodies, a risk management appraisal has been prepared.

To ensure that such agreement and arrangements do not impact adversely upon the services provided by the Council.

To ensure that all agreements and arrangements are properly documented.

To provide appropriate information to the Section 151 Officer/ Deputy Section 151 Officer to enable the appropriate disclosure to be entered into the Council's Statement of Accounts concerning material items.

41. External funding

Why is this important?

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. The Council is increasingly encouraged to provide 'seamless' service delivery through working closely with other agencies and private service providers.

Funds from external agencies to enable the Council to deliver services to the local community. However in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

Key controls

The key controls for external funding are to ensure that:

- key conditions of funding and any statutory requirements are complied with, and that the responsibilities of the accountable body are clearly understood;
- funds are acquired only to meet the priorities approved in the policy framework by the full Council; and

- any match funding requirements are given due consideration prior to entering into long term agreements and that future revenue budgets reflect these requirements.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

To ensure that the match funding requirements are considered prior to entering into the agreements and future revenue budgets reflect these requirements.

To ensure that audit requirements of the Funding Body are met.

Responsibility of Budget Managers

To ensure that all claims for funds are made by the due date.

To ensure that the project progresses in accordance with the agreed project and all expenditure is properly incurred and recorded.

To ensure that conditions, after grant is awarded and the project is complete, are met.

42. Work for third parties (including other Local Councils)

Why is this important?

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise.

Effective controls need to be in place to ensure that any risks associated with this work are minimised, and that the work falls within the Council's statutory powers.

Boston Borough Council's financial procedures apply equally to any service carried out by Boston Borough Council for any other Council, body or person.

Key controls

The key controls for working with third parties are to:

- to ensure that proposals are costed properly;
- to ensure that contracts are drawn up using guidance provided by the Section 151 Officer/ Deputy Section 151 Officer and head of legal and member services and that the formal approvals process is adhered to; and
- issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibility of Section 151 Officer/ Deputy Section 151 Officer

To issue guidance and properly assess the financial aspects of third party contracts and the maintenance of the contract register.

Legal Officer

To issue guidance sheet for the Council on the legal aspects of third party contracts.

To maintain a register of all contracts entered into with third parties.

To ensure that all contracts are properly documented.

Responsibility of Budget Managers

To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.

To ensure that appropriate insurance arrangements are made.

To ensure that the Council is not put at risk from any bad debts.

To ensure that no contract is subsidised by the Council.

To ensure that payment is received in advance of the delivery of the service, or in accordance with contract conditions.

To ensure that the unit has the appropriate expertise and capacity to undertake the contract and do not impact adversely upon the services provided for Boston Borough Council.

To provide appropriate information to the Section 151 Officer/ Deputy Section 151 Officer to enable the appropriate disclosure to be entered into the Statement of Accounts.

43. Summary of Limit or Control

Financial Procedure	Description of Limit or Control	Limit or Control
12 Supplementary Estimates	There are occasions when additional requests for funding are made by Budget Managers which cannot be contained within the resources allocated. Additional requests for funding up to £50,000 – specific approval by CMT in consultation with the Section 151 Officer/Deputy 151 Officer	Additional requests for funding up to £500,000 – specific approval by Cabinet Additional requests for funding over £500,000 – specific approval by Full Council following Cabinet consideration
13 Capital Programme	The Government has released the strict control on the financing capacity of the Council due to the introduction of the Prudential control regime. However, capital expenditure should still form part of the Council's investment strategy and should be carefully prioritised in order to maximise the benefit of available resources. De minimis level for capital expenditure of £10,000 for land and £5,000 for plant, vehicles and equipment	Approval by Cabinet where capital schemes are to be financed up to £500,000 and subject to approval of Full Council where the expenditure exceeds this amount

14 Virements

The scheme of virement is intended to enable the Cabinet and budget managers to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council.

A **Budget Manager** may exercise virement on budgets under his/her control for amounts up to **£10,000** on any one budget head during the year, following approval by the Head of Service or Director.

Amounts greater than **£10,000** and less than **£50,000** require the approval of the **Section 151 Officer or Deputy Section 151 Officer**.

Amounts greater than **£50,000** require the approval of the **Cabinet**, following a joint report by the **Section 151 Officer/Deputy Section 151 Officer and the Head of Service**.

Amounts greater than **£500,000** will require **Full Council** approval

23 Inventories

This is important to help safeguard the Council's assets. It is an extension to the Security of Assets part of these procedures

Prepare reports in conjunction with the **Section 151 Officer/Deputy Section 151 Officer** on write-offs above **£5,000** to the Cabinet

This page is intentionally left blank

PART 4 (SECTION H)

CONTRACT AND PROCUREMENT PROCEDURE RULES

CONTENTS

1. BASIC PRINCIPLES
2. OFFICER RESPONSIBILITIES
3. EXEMPTIONS
4. RELEVANT CONTRACTS
5. RECORDS
6. RISK ASSESSMENT
7. ADVERTISING
8. FRAMEWORKS
9. COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL
10. PRE-TENDER MARKET TESTING AND CONSULTATION
11. EVALUATION CRITERIA AND STANDARDS
12. INVITATION TO TENDER / REQUEST FOR QUOTATION
13. SHORTLISTING
14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS
15. CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS
16. EVALUATION, AWARD OF CONTRACT AND DEBRIEFING OF ORGANISATIONS
17. CONTRACT DOCUMENTS
18. LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES
19. PREVENTION OF CORRUPTION
20. DECLARATION OF INTERESTS
21. CONTRACT MANAGEMENT / MONITORING
22. POST CONTRACT MONITORING AND EVALUATION
23. INTERNAL PROVIDERS
24. EXTERNAL BODY GRANT FUNDING
25. APPOINTMENT OF CONSULTANTS
26. REVIEW AND AMENDMENT OF CPR

27. TERMINATION OF CONTRACTS

APPENDIX 1 – EXEMPTION FORM

APPENDIX 2 – ABOVE PCR / CCR REGULATION THRESHOLDS

APPENDIX 3 – DELEGATIONS TO OFFICERS IN RELATION TO CONTRACTS

1. BASIC PRINCIPLES

1.1 All procurement procedures must:

- 1.1.1 realise value for money by awarding contracts that have the most advantageous contribution to delivering the Council's objectives,
- 1.1.2 be consistent with the highest standards of integrity,
- 1.1.3 operate in a transparent manner,
- 1.1.4 ensure fairness in allocating public contracts including managing conflicts of interest,
- 1.1.5 comply with all legal requirements including but not limited to the Procurement Act 2023 or successor legislation,
- 1.1.6 support all relevant Council priorities and policies, including the Medium-Term Financial Plan.

NB: These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise (*see the Delegations to Officers for details of Officers who may action this rule*).

- 1.2 “written” or “in writing” means any expression consisting of words or figures which can be read, reproduced, and subsequently communicated, including information transmitted and stored by electronic means.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 Officers will make sure that:

- (a) they comply with these Contract Procedure Rules (CPRs),
- (b) they comply with the Council's Constitution,
- (c) they comply with the Delegations to Officers;
- (d) they declare prior to the commencement of the procurement process any personal interest they may have in that process;
- (e) all tenders/quotations are kept confidential;
- (f) a written contract is issued and signed by both parties, or a purchase order is issued before the supply of goods, services or carrying out of works begin;
- (g) Where appropriate identify a Contract Manager with responsibility for ensuring the contract delivers as intended;
- (h) a review of each contract is carried out at an appropriate stage; and
- (i) they comply with all legal requirements.

Officers must ensure that any agents, consultants, and contractual partners acting on their behalf also comply.

2.1.2 Officers will:

- (a) keep any necessary records required by these Contract Procedure Rules,
- (b) take all necessary procurement, legal, financial, and professional advice, taking into account the requirements of these Contract Procedure Rules,

- (c) prior to letting a contract on behalf of the Council, check whether:
 - (i) the Contracts Register lists an appropriate contract in place for the Council, or:
 - (ii) an appropriate national, regional, or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with a Contracts and Procurement Service.

Where an appropriate national, regional, or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (d) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

2.1.3 Failure to comply with any of the provisions of these Contract Procedure Rules, the Council's Constitution or any legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Officer as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.1.4 A contract may be let through any framework agreement to which the Council has access. Where the contract to be let is subject to the Procurement Act 2023, or any other relevant UK Legislation, use of such framework agreement shall be subject to compliance with those regulations (*see the Delegations to Officers for details of Officers who may action this rule*).

2.2 Chief Officer/Deputy Chief Officers

2.2.1 Chief Officer/Deputy Chief Officers will:

- (a) ensure their Services complies fully and are familiar with the requirements of these Contract Procedure Rules;
- (b) ensure contracts with a value over £5,000 are recorded on the Contracts Register as held and maintained by a Contracts and Procurement Service;
- (c) ensure compliance with English Law and U.K. legislation and Council policy.
- (d) ensure value for money and optimise risk allocation in all procurement matters;
- (e) ensure compliance with any guidelines issued in respect of these Contract Procedure Rules
- (f) take immediate action in the event of a breach of the Contract Procedure Rules or any Code of Practice within their directorate or service area;
- (g) ensure that all existing and new contracts anticipated during the forthcoming financial year are clearly itemised in the Budget supporting documentation;
- (h) make appropriate arrangements for the opening of tenders and their secure retention using secure electronic means;
- (i) ensure original contract documents with a total value over £5,000 are forwarded to a Contracts and Procurement Service for safekeeping;
- (j) ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas;
- (k) seek and act upon advice from a Contracts and Procurement Service and Performance team where necessary to ensure compliance with these responsibilities; and
- (l) keep records of variations and exemptions of any provision of these Contract Procedure Rules.

2.2.2 Chief Officer/Deputy Chief Officers must keep a register of

- (a) contracts entered into by or on behalf of the Council, and
- (b) exemptions recorded under Rule 3 and satisfy themselves that the use of exemptions has been monitored and a record kept by a Contracts and Procurement Service.

3. EXEMPTIONS

- 3.1 Except where the Procurement Act 2023 applies, the Cabinet/Executive has the power to waive any requirements within these Contract Procedure Rules for specific projects. An exemption under this Rule 3 allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 9.
- 3.2 These Contract Procedure Rules may be exempted where the circumstances meet any of the following criteria within 3.3. An exemption form must be completed and sent to the Head of Procurement & Contracts in the first instance to allow comments which will assist with the approval or rejection of the exemption.
- 3.3 The Head of Procurement & Contracts will then pass this through to the Section 151 Officer for approval prior to consideration by the Chief Executive and the Portfolio Holder for the relevant area, as well as the Portfolio Holder for Finance. This process must be followed in advance of the award of contract, and in compliance with the criteria set out in the Delegations to Officers:
 - 3.3.1 for works, supplies, or services which are either patented or of such special character that it is not possible to obtain competitive prices;
 - 3.3.2 for supplies purchased or sold in a public market or auction;
 - 3.3.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement that does not breach legal requirements such as the Procurement Act 2023.
 - 3.3.4 involving such urgency that it is not possible to comply with the Contract Procedure Rules and there is a significant risk to the council of not acting with urgency;
 - 3.3.5 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
 - 3.3.6 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
 - 3.3.7 where relevant legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;
 - 3.3.8 goods, works or services contracts may be awarded directly to a legal person where that legal person meets the criteria as set out in Schedule 2, Paragraph 2 of the Procurement Act 2023. (formerly known as "Teckal" companies);
 - 3.3.9 where building development opportunities are available to the Council, and have been proven to be financially viable, and the value is under the Procurement Act 2023 Thresholds for Works (as per Appendix 2 – Procurement Act 2023 Thresholds..
- 3.4 In addition to approval by a Contracts and Procurement Service:
 - 3.4.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department, health authority, primary care trust or statutory undertaker.
 - 3.4.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause:
 - (a) Disproportionate technical difficulties

- (b) Diseconomies
- (c) Significant disruption to the delivery of Council services.

- 3.5 Every variation/exemption must be recorded on the Council's Procurement Exemption Form at Appendix 1 to these Contract Procedure Rules and the form will be recorded on a master register to be maintained by a Contracts and Procurement Service.
- 3.6 Where a variation/exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, Chief Officer/Deputy Chief Officer may approve the exemption but must prepare a report for the next meeting of the Cabinet/Executive to support the action taken.
- 3.7 Where grant conditions require expenditure to be incurred within a financial year, and notification of grant is received so late as to prevent compliance with Rule 9, an exemption may be approved by the Chief Executive on receipt of a report from the relevant service where the Section 151 Officer and Monitoring Officer have been consulted.
- 3.8 A Contracts and Procurement Service must monitor the use of all exemptions.

4. RELEVANT CONTRACTS

- 4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials, or services. These include arrangements for:
- 4.1.1 the supply or disposal of goods or materials,
 - 4.1.2 the hire, rental or lease of goods or equipment,
 - 4.1.3 execution of works,
 - 4.1.4 the delivery of services, including (but not limited to) those related to:
 - (a) the recruitment of staff
 - (b) land and property transactions
 - (c) financial and consultancy services
 - (d) the supply of staff by employment agents, consultants, or any other companies
- 4.2 Relevant Contracts do not include:
- 4.2.1 contracts of employment which make an individual a direct employee of the authority,
 - 4.2.2 agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply),
 - 4.2.3 the payment of grants to third parties
 - 4.2.4 The lending or borrowing of money by the Council.
 - 4.2.5 Contracts between Local Authorities as defined by Schedule 2, Paragraph 2 of the Procurement Act 2023
 - 4.2.6 Contracts between Local Authorities as defined by Clause 1 of the Local Authorities (Goods and Services) Act 1970.
 - 4.2.7 Section 75 NHS Act 2006 arrangements (although details must be recorded on the Council's Contract Register).

NB: While grants are not covered by these Contract Procedure Rules, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat procurement as a grant in order to avoid conducting a competitive process.

5. RECORDS

- 5.1 The Procurement Act 2023 require contracting authorities to maintain the following comprehensive records of procurement activities:
- 5.1.1 sufficient documentation to justify decisions at all stages of the procurement process
 - 5.1.2 contract details including value
 - 5.1.3 selection decision
 - 5.1.4 justification for use of the selected procedure
 - 5.1.5 names of bidding organisations, both successful and unsuccessful
 - 5.1.6 reasons for selection
 - 5.1.7 reasons for abandoning a procedure
- 5.1A Most contracts and extensions to contracts will be awarded by Officers making a decision under delegated authority (see Delegations to Officers). All such Officer decisions must be published unless the decision is administrative, minor, or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies, the winning contractor must be advised that the award of contract is subject to Call-in and will not be confirmed until the Call-in period has expired.
- 5.2 For contracts up to £40,000 the following records must be kept:
- 5.2.1 invitations to quote (where applicable)
 - 5.2.2 all tenders/quotes returned;
 - 5.2.3 notification to the successful, and unsuccessful (where applicable) bidders of the outcome of the quotation exercise
 - 5.2.4 the contract;
 - 5.2.5 a written record of:
 - (a) any exemptions and reasons for it; and
 - (b) the reasons if the lowest price is not accepted
- 5.3 A Contracts and Procurement Service should be made aware of any procurement requirements at the earliest opportunity to assist with this process. Where advertising is required by these rules, competitive procurement processes must be advertised on the Council's e-Tendering portal. Where the total value is greater than £40,000.00 but less than £85,000.00 for works, supplies of goods materials or services, the following records must be kept:
- 5.3.1 invitations to quote/tender;
 - 5.3.2 all communication with suppliers;
 - 5.3.3 all tenders/quotes returned;
 - 5.3.4 a completed evaluation sheet with scores and comments justifying the score awarded;
 - 5.3.5 feedback letters to the unsuccessful bidders;
 - 5.3.6 all communications with the successful contractor;
 - 5.3.7 the contract;
 - 5.3.8 a written record of:
 - (a) any exemptions and reasons for it; and
 - (b) the reasons if the lowest price is not accepted
 - 5.3.9 written records of communications with the successful contractor.
- 5.4 For contracts up to £40,000 records should be kept following the principles as above but the actual record kept should be proportionate to the value of the contract.
- 5.5 Where the total value exceeds £85,000.00 for works, supplies of goods, materials or services, the Officer must record the same details as in Rule 5.3 above and any further records as advised by a Contracts and Procurement Service.

- 5.6 Written records required by this Rule 5 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. All documents which relate to unsuccessful candidates (tender responses, feedback letters etc.) must be kept for 12 months from award of contract provided there is no dispute about the award or where there is a dispute, once the dispute is resolved, 12 months from resolution of the dispute.
- 5.7 Prospective candidates must be notified simultaneously in writing and as soon as possible of any contracting decision. If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request.
- 5.8 The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the contractor shall agree to the Council making any disclosures in accordance with the Act.

6. RISK ASSESSMENT

- 6.1 Officers must consider any risks in the procurement process including the skills and capacity within the Council to manage the procurement process. Where any risk assessment identifies a need for further specialist advice that specialist advice must be procured in accordance with these rules.

7. ADVERTISING

The Contracts and Procurement Service will ensure that the minimum advertising requirements in the Procurement Act 2023 and as outlined in Rule 9 are met.

8. FRAMEWORKS

- 8.1 **Frameworks** (see the *Delegations to Officers for details of Officers who may action this rule*):

- 8.1.1 Framework has the same meaning as in the Procurement Act 2023: "...a contract between a contracting authority and one or more suppliers that provides for the future award of contracts by the authority to the supplier(s)."
- 8.1.2 The term of a Framework must not exceed four years, when utilising a Closed Framework, or eight years when utilising an Open Framework, as defined in the Procurement Act 2023.
- 8.1.3 Contracts based on Frameworks may be awarded in one of two ways, as follows:
- (a) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework without re-opening competition, or
 - (b) where the terms laid down in the Framework are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
 - (i) inviting the organisations within the Framework, that are capable of executing the subject of the contract, to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,
 - (ii) awarding each contract to the bidding organisation who has submitted the most advantageous tender on the basis of the relevant Award Criteria set out in the Framework.

Where a Framework is used and the arrangements under that Framework include further competition, the Delegations to Officers details which Officers may seek, receive, and evaluate quotations/tenders.

- 8.1.4 Most contracts will then be awarded by Officers making a decision under delegated authority. All such Officer decisions must be published unless the decision is administrative, minor, or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies the winning contractor must be advised that the award of contract will not be confirmed until the Call-in period has expired.

9. COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL

9.1 Competition Requirements

- 9.1.1 Chief Officers/Deputy Chief Officers must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded. Where the Procurement Act 2023 rules apply, Chief Officers/Deputy Chief Officers must also ascertain the value of a contract in accordance with those rules.
- 9.1.2 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules, or the Procurement Act 2023.
- 9.1.3 Where the estimated total value for a purchase or concession is within the values in the first and second columns of the table below, the tendering procedure in the third column must be followed (*see the Delegations to Officers for details of Officers who may action this rule*).

Works and Concessions	Supply of Goods, Materials and Services	Tendering Procedure
£0 to £5,000	£0 to £5,000	One quote - this should be a local provider wherever possible. A purchase order must be raised.
£5,001 - £10,000	£5,001 - £10,000	Two written quotes – one should be a local provider wherever possible. A purchase order must be raised.
£10,001 to £40,000	£10,001 to £40,000	At least three written quotes shall be sought and two must be received. Local providers must be given an opportunity to provide a quote, wherever possible. A purchase order must be raised
£40,001 to £85,000	£40,001 to £85,000	At least five written quotations shall be sought via a Request for Quotation via e-Tendering Portal. Local providers must be given an opportunity to provide a quote, wherever possible. A purchase order must be raised.
£85,001 up to Procurement Act 2023 thresholds*	£85,001 up to Procurement Act 2023 thresholds*	Open tender via E-Tendering Portal. A social value clause must be built into the specification and contract. (Public Service (Social Value) Act 2012). A purchase order must be raised

Above Procurement Act 2023 thresholds*	Above Procurement Act 2023 thresholds*	UK Public Procurement Procedure – via E-Tendering Portal & Find a Tender notice. Local social value clause must be built into the specification of the contract. (Public Service (Social Value) Act 2012). A purchase order must be raised

* As per Appendix 2 – Above Procurement Act 2023 thresholds*

- 9.1.4 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements, all suitably qualified candidates must be invited (*see the Delegations to Officers for details of Officers who may action this rule*).
- 9.1.5 Where services are currently purchased internally, i.e., from within the Council, for internal provision, the requirement to obtain other quotations or tenders does not apply. However, the purchaser may choose to seek alternative quotations/tenders for the purpose of market testing.
- 9.1.6 Where the Procurement Act 2023 thresholds apply, the procuring Officer shall consult a Contracts and Procurement Service to determine the procedure for conducting the procurement exercise.

9.2 Assets for Disposal (*see the Delegations to Officers for details of Officers who may action this rule*):

- 9.2.1 Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.
- 9.2.2 Assets for disposal must be sent to Public Sale except where better value for money is likely to be obtained by inviting quotations and tenders. In the latter event, the method for disposal of surplus or obsolete stocks/stores or assets other than land must be determined as follows:

Total Value	Procedure
Where the cost of disposal is likely to outweigh the value of the asset for disposal	By (in order of preference) 1. gifting to a local organisation if they can make use of the asset; 2. disposal for recycling; or 3. disposal by the most environmentally friendly option possible.
Up to £10,000	Two written quotations or public sale
£10,000.01 and above	At least three written quotations or public sale, or an invitation to tender

10. PRE-TENDER MARKET TESTING AND CONSULTATION

- 10.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation (*see the Delegations to Officers for details of Officers who may action this rule*).
- 10.2 When engaging with potential suppliers, the Council may use any advice in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.

- 10.3 The council shall take appropriate measures to ensure that competition is not distorted by the participation of a candidate or tenderer who has provided any advice by ensuring all other candidates and tenderers are provided with all of the information the advising candidate or tenderer has received or given and that all candidates or tenderers are given sufficient time to respond to the tender or quote.
- 10.4 In undertaking any market testing activities, the Officer responsible must seek advice from a Contracts and Procurement Service.

11. EVALUATION CRITERIA AND STANDARDS *(see the Delegations to Officers for details of Officers who may action this rule):*

11.1 Evaluation Criteria

11.1.1 In any procurement exercise the successful bid should be the one which:

- (a) offers the lowest price where payment is to be made by the Council, or offers the highest price if payment is to be received, or;
- (b) offers the most advantageous balance between quality and price.
In the latter case, the Council will use criteria such as qualitative, environmental and/or social aspects, linked to the subject matter of the contract to determine that an offer is the most advantageous. Such criteria may include:
 - (i) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental, and innovative characteristics and trading and its conditions;
 - (ii) organisation, qualification, and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or
 - (iii) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

11.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of subcontractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

11.1.3 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

11.1.4 The evaluation criteria must not include:

- (a) Non-commercial considerations
- (b) Matters which discriminate against suppliers who are signatories to the *Government Procurement Agreement*.

12. INVITATION TO TENDER / REQUEST FOR QUOTATION *(see the Delegations to Officers for details of Officers who may action this rule)*

12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these Contract Procedure Rules.

12.2 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender, subject to 15.5.3. No tender delivered in contravention of this Rule 12 shall be considered.

12.3 All Invitations to Tender shall include the following:

- 12.3.1 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of contract that will apply.
 - 12.3.2 A requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender submitted by the candidate has not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose).
 - 12.3.3 A requirement for candidates to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
 - 12.3.4 Notification that tenders are submitted to the Council on the basis that they are compiled at the candidate's expense.
 - 12.3.5 A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and the percentage weighting of each criterion in the evaluation.
 - 12.3.6 The method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.
- 12.4 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.
- 12.5 All candidates invited to tender, or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. Where a candidate asks a clarification question regarding the tender or quote, the question and the answer will be provided to all candidates.
- 12.6 Under the Procurement Act 2023, the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be **abnormally low** in relation to the requirement.
- 12.7 Advice should be sought from the Contracts & Procurement Service during this investigation process to ensure that the requirements of the Procurement Act 2023 are complied with.

13. SHORTLISTING

Any shortlisting (i.e., supplier selection or conditions of participation) must have regard to the economic and financial standing and the technical and professional ability of the candidates to deliver the required goods, services or works.

14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS *(see the Delegations to Officers for details of Officers who may action this rule):*

14.1 Tenders

- 14.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements.
- 14.1.2 Tender Contents:
 - Each tender must contain, where relevant:
 - (a) An undertaking signed by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it or where they have not complied, an explanation of the remedial action they have taken to ensure compliance;
 - (b) A statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent international standards offering guarantees of safety, reliability, and fitness for purpose;

- (c) A statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for and award of any contract;
- (d) A statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

14.2 Electronic Arrangements

- 14.2.1 Tenders, Quotations, Framework Further Competition bids and Conditions of Participation stages will be received electronically and will be opened by a Contracts and Procurement Service. The system will not allow any quotations to be opened until the allocated return date / time has passed. *(See the Delegations to Officers for details of Officers who may action this rule).*

14.3 Hard Copy Arrangements

- 14.3.1 In the limited circumstances where a Quotation, Further Competition bid or Tender cannot be received electronically, a Contracts and Procurement Service will consult with the Monitoring Officer to agree a suitable way to receive the Quotation, Further Competition bid or Tender.

15. CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS

- 15.1 Seeking clarification of a tender received whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission and all tenderers must be treated equally *(see the Delegations to Officers for details of Officers who may action this rule).*
- 15.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery, or content. *Where the value of the Tender is above the threshold in the Procurement Act 2023 advice must be sought from a Contracts and Procurement Service. Where post tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered (see the Delegations to Officers for details of Officers who may action this rule).*
- 15.3 If post tender negotiations are necessary after a single stage tender or at the final stage of a multiple-stage tender, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief Officer/Deputy Chief Officer to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 15.4 Post tender negotiation must only be conducted in accordance with guidance given by the Monitoring Officer and a Contracts and Procurement Service.
- 15.5 The Monitoring Officer and a Contracts and Procurement Service must be consulted and agree:
 - 15.5.1 Wherever it is proposed to enter into post tender negotiation;
 - 15.5.2 About whether negotiation is with all tenderers;
 - 15.5.3 To either accept or reject late submissions before opening any of the responses. Late submissions must only be accepted in exceptional circumstances.

- 15.6 Negotiations must be conducted by a team of at least two officers, one of whom must be from a section independent to those leading negotiations (*see the Delegations to Officers for details of Officers who may action this rule*).

16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

16.1 Evaluation (*see the Delegations to Officers for details of Officers who may action this rule*):

- 16.1.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance given by a Contracts and Procurement Service.
- 16.1.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 16.1.3 Deputy Chief Officers must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

16.2 Award of Contract and Contract Extensions (*see the Delegations to Officers for details of Officers who may action this rule*):

- 16.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- 16.2.2 Where a contract was advertised with an extension option and that extension option forms part of the contract, the decision to extend the contract may be made after ensuring that taking up the extension option delivers value for money.
- 16.2.3 Decisions on award of contract and contract extensions must be made in accordance with the Delegations to Officers.

16.3 Debriefing

- 16.3.1 The debriefing of organisations will be sent by a Contracts and Procurement Service, in line with the relevant Officer's evaluation comments.

17. CONTRACT DOCUMENTS

17.1 Format of Contract Documents

- 17.1.1 Every Relevant Contract/must be in writing and must state clearly:
 - (a) what is to be supplied (description and quality)
 - (b) payment provisions (amount and timing and seeking electronic invoices)
 - (c) when the Council will have the right to terminate the contract
 - (d) that the contract is subject to the law as to prevention of corruptionThe Council's standard terms and conditions must be used where possible.
- 17.1.2 In addition, every Relevant Contract for purchases over £25,000.00 for works, supplies of goods, materials or services must also as a minimum state clearly:
 - (a) that the contractor may not assign or sub-contract without prior written consent
 - (b) any insurance and liability requirements
 - (c) health and safety requirements
 - (d) ombudsman requirements
 - (e) data protection requirements if relevant
 - (f) that charter standards are to be met if relevant
 - (g) requirements under the Equalities Act 2010
 - (h) obligations under the Care Act 2014 in safeguarding adults and children

- (i) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, including obligations under the FOI Act 200 and 2015 Transparency Code
 - (j) requirements under the Counter-Terrorism and Security Act 2015 and Prevent Strategy where applicable
 - (k) obligations under the Public Interest Disclosure Act 1998 including employee whistleblowing.
 - (l) Statement requirements under the Modern Slavery Act 2015.
- 17.1.3 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.
- 17.1.4 All contracts must include the following paragraph:
 'The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 ('Convention Rights'). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council's behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights.'
- 17.1.5 The Officer responsible for securing the signature of the contractor must ensure that the person signing for the contracting party has authority to bind it.
- 17.2 **Contract Signature** (*see the Delegations to Officers for details of Officers who may action this rule*):
- 17.2.1 A contract entered into by or on behalf of the Council must:
- (a) Where the contract is in the form of a deed (see below), be made under the Council's seal and attested as required by the Constitution, or:
 - (b) Where the contract is in the form of an agreement, either:
 - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
 - (ii) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.
- 17.2.2 A contract must be in the form of a deed (see below) and sealed where;
- (a) The Council wishes to enforce the contract for more than six years after it ends; or
 - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
 - (c) Where there is any doubt about the authority of the person signing for the contracting party.

A contract in the form of a deed must state in the signature pages that the Contractor and the Council are executing the contract as a deed. Where an Officer is unsure whether a Contract should be signed under hand, or sealed, they must contact the Procurement & Contracts service to seek advice.

17.3 Legal Services Review of Tenders and Contracts

17.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, where they are not in compliance with the Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by the Deputy Chief Officer.
- (a) Any proposed Invitations to Tender which are subject to the Procurement Act 2023, or which are deemed to be of high risk, must be reviewed by the Deputy Chief Officer.

- (b) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by the Deputy Chief Officer

18. LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES

- 18.1 Every formal written contract which exceeds £85,000.00 in value or amount and is for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.
- 18.2 The Officer must consult the Deputy Chief Officer when a tenderer is a subsidiary of a parent company and the officer does not think that a parent company guarantor is necessary, and:
- 18.2.1 The total value exceeds £85,000.00.
 - 18.2.2 Award is based on evaluation of the parent company, or
 - 18.2.3 There is some concern about the stability of the tenderer.
- 18.3 The officer must consult the Deputy Chief Officer about whether a bond is needed:
- 18.3.1 Where the total value exceeds £85,000.00.
 - 18.3.2 Where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

19. PREVENTION OF CORRUPTION

- 19.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.
- 19.2 The following clauses must be put in every written Council contract:
- 'The Council may terminate this contract and recover all its loss if the Contractor, its employees, or anyone acting on the Contractor's behalf do any of the following things:
- 19.2.1 Offer, give, or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
 - 19.2.2 Commit an offence under the Bribery Act 2010 or Section 117(2) of the 1972 Act; or
 - 19.2.3 Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors, or employees.
- Any clause limiting the Contractor's liability shall not apply to this cause.'
- 19.3 Any suspected irregularity shall be referred to the Audit Manager who shall notify the Monitoring Officer where necessary. Any examination of contractors' or tenderers' books and records as a result of any such suspected irregularity shall be conducted by the Audit Manager. If, in the investigation of any irregularity, the Monitoring Officer considers that disciplinary procedures may need to be invoked, the appropriate Chief Officer/Deputy Chief Officer shall also be notified.

20. DECLARATION OF INTERESTS

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

21. CONTRACT MANAGEMENT / MONITORING

- 21.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Deputy Chief Officer must ensure a Contract Manager is designated prior to award.

22. POST CONTRACT MONITORING AND EVALUATION

22.1 During the life of the contract the Contract Manager must monitor in respect of:

- 22.1.1 performance
- 22.1.2 compliance with specification and contract
- 22.1.3 cost
- 22.1.4 any Best Value requirements
- 22.1.5 user satisfaction and risk management
- 22.1.6 social value or any other contractual obligations to deliver additional value arising from the contract

22.2 Where the Total Value of the contract exceeds £85,000.00 the Officer must make a written report evaluating the extent to which the purchasing need and contract objectives were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

22.3 For contracts awarded under £85,000, if, at any point during the delivery of the contract, the cost looks likely to exceed £85,000 the Contract Manager must notify a Contracts and Procurement Service. A Contracts and Procurement Service and the Contract Manager will consider the following options:

Where the amount by which the total contract value exceeds £85,000 is not significant, allow the contract to run to its natural conclusion;

Where the amount by which the total contract value exceeds £85,000 is significant and the contract allows termination, terminate the existing contract, and retender.

Where the amount by which the total contract value exceeds £85,000 is significant and the contract does not allow termination, or continuing with the contract represents value for money, allow the contract to run to its natural conclusion

23. INTERNAL PROVIDERS

Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

24. EXTERNAL BODY GRANT FUNDING

24.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, a Contracts and Procurement Service must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these Contract Procedure Rules.

24.2 Where there is any conflict between these Contract Procedure Rules and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

25. APPOINTMENT OF CONSULTANTS

25.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief.

25.2 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Deputy Chief Officer for the periods specified in the respective agreement.

25.3 Consultants shall be selected, and commissions awarded in accordance with the values and procedures recorded in the table in Rule 9.1.3 above for services.

25.4 Records of consultancy appointments shall be maintained in accordance with Rule 5.

26. REVIEW AND AMENDMENT OF CPR

These Contract Procedure Rules shall be reviewed and updated, as necessary.

27. TERMINATION OF CONTRACTS *(see the Delegations to Officers for details of Officers who may action this rule)*

The Delegations to Officers details which Officers may terminate a contract. Any termination must be strictly in accordance with the terms of the contract and subject to consultation with the Monitoring Officer and Section 151 Officer and in some cases with the relevant Portfolio Holder.



REQUEST FOR EXEMPTION FROM CONTRACT AND PROCUREMENT PROCEDURE RULES

You must use existing corporate contracts set up by the Council where possible. If there is no existing contract you should check if a “framework” contract exists for that service.

Contract Procedure Rules may be waived or varied where the circumstances meet any of the following criteria, subject to approval by the Chief Executive, Section 151 Officer, and the Portfolio Holder for Finance in advance of the award of contract, and in compliance with the criteria set out in the Log of Delegations to Officers.

NOTE: If the total value of the contract is over the Procurement Threshold, then an exemption cannot be granted.

Describe your requirements			
Supplier name		Market Testing undertaken?	
If no, why?			
Total contract value			
Contract Start Date		Contract End Date	

Exemption clauses as at paragraph 3 of the Council's Constitution.	Tick below as appropriate
3.3.1 for works, supplies, or services which are either patented or of such special character that it is not possible to obtain competitive prices;	
3.3.2 for supplies purchased or sold in a public market or auction;	
3.3.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement that does not breach legal requirements such as the Public Contracts Regulations 2015 / Procurement Act 2023;	
3.3.4 involving such urgency that it is not possible to comply with the Contract Procedure Rules and there is a significant risk to the council of not acting with urgency	
3.3.5 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement	
3.3.6 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this	
3.3.7 where relevant legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;	
3.3.8 goods, works or services contracts may be awarded directly to a legal person where that legal person meets the criteria as set out in Schedule 2 of the Procurement Act 2023 (Exempted Contracts)	

3.3.9 where building development opportunities are available to the Council, and have been proven to be financially viable, and the value is under the FTS Thresholds for Works (as per Appendix 2 – Procurement Act 2023 thresholds)		
In addition to approval by the Contracts and Procurement Service:		
3.3.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department, health authority, primary care trust or statutory undertaker.		
3.3.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause: (a) Disproportionate technical difficulties (b) Diseconomies (c) Significant disruption to the delivery of Council services.		
Explain the justification for the exemption and attach any relevant documents		
We Confirm the supplier has quoted against the Councils Standard terms and conditions ☐ If you are using the supplier's terms and conditions, please supply a copy as part of this exemption.		
Tick box if you require assistance to finalise agreement or negotiate further		
Name of Officer requesting approval: Department: Signature: Date:		
Expenditure approved by Authorised Officer (see Delegations to Officers) Name: Position: Signature: Date:		
Completed Forms should be sent to Head of Procurement & Contracts		
martin.gibbs@pspsl.co.uk		
For Procurement & Contracts Service		Date
Comments:		
Approved by Chief Executive: Signature: Date:		
Approved by Section 151 Officer: Signature: Date:		
Approved by Portfolio Holder for XXXX:		

Signature:	Date:
Approved by Portfolio Holder for Finance:	
Signature:	Date:

We confirm that the Leader of the Council has been notified of this exemption

☐

APPENDIX 2 TO THE CONTRACT PROCEDURE RULES – PROCUREMENT ACT 2023
THRESHOLDS

**SUMMARY OF THRESHOLD LEVELS FROM 1ST JANUARY 2024 (ALL VALUES ARE INCLUSIVE
OF VAT)**

PROCUREMENT ACT 2023

SUPPLIES & SERVICES: £214,904

WORKS: £5,372,609

LIGHT TOUCH REGIME FOR SERVICES: £663,540

Delegations to Officers in relation to Contracts

Abbreviation	Meaning
CX	Chief Executive
DCX	Deputy Chief Executive
AD	Assistant Director
SM	Service Manager
MO	Monitoring Officer

Officer(s)	Subject	Delegation From	Power
CX, DCXs and ADs following consultation with the MO or S151 Officer	Contracts - contracting activities of any partnership for which the Council is the accountable body	Cabinet	(Note to Contract Procedure Rule 1) Authority to agree that Contract Procedure Rules do not apply to contracting activities of any partnership for which the Council is the accountable body
CX, DCXs, ADs and SMs subject to consultation with the appropriate portfolio holder (consultation is not required for (i) routine contracts (e.g. routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget for the contract as such contracts are not closely connected to the discharge of the function.)	Contracts – letting (awarding) of contracts through framework agreement	Cabinet	(Contract Procedure Rules 2.1.4 and 8) Authority to let (award) a contract through any framework agreement to which the Council has access where considered expedient by a CO or a DCO subject to the scheme falling within the approved budget which includes the approved 5-year capital programme. (A decision notice must be published for each award of contract unless administrative or minor or not closely connected to discharge of function.) (The signing of contracts is dealt with separately below.)
Approval by the CX, S151 Officer and the Portfolio Holder for finance in advance of the award of contract	Contracts - variation or waiver (exemption) of Contract Procedure Rules	Cabinet	(Contract Procedure Rule 3.3) Authority to vary or waive any Contract Procedure Rules subject to complying with all relevant requirements of Rule 9, and subject to the scheme falling within the approved

			budget which includes the approved 5-year capital programme.
CX, DCXs, ADs and SMs	Contracts - assets for disposal	Cabinet	(Contract Procedure Rule 9.2) Authority to dispose of obsolete stocks, stores, or assets, other than land, subject to complying with Contract Procedure Rule 9.2.
CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (any sub-delegations lasting more than 6 months must be reported to the MO)	Contracts - pre tender market testing and consultation	Cabinet	(Contract Procedure Rule 10.1) Authority to consult potential suppliers prior to issue of the Invitation to Tender or Request for Quotation subject to the scheme falling within the approved budget which includes the approved 5-year capital programme
CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (any sub-delegations lasting more than 6 months must be reported to the MO)	Contracts – all values – seeking, receiving, and evaluating quotations/tenders for contracts for works, goods materials, and services, and hiring of consultants	Cabinet	(Contract Procedure Rules 7 (where a competition is required), 9.1.3 and 9.1.4, 11.0, 12.0, 14.0, 14.3, 16.1). Authority to request and receive tenders and quotations, and to evaluate tenders and quotations subject to compliance with the Contract Procedure Rules (as amended by any authorised variation or waiver) and subject to the scheme falling within the approved budget which includes the approved 5-year capital programme. (The awarding and the signing of contracts are dealt with separately.)
CX, DCXs, ADs and SMs following consultation with the relevant portfolio holder (consultation is not required for (i) routine contracts (e.g. routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or	Contracts - awarding of contracts	Cabinet	(Contract Procedure Rules 5.1A,16.2) Authority to award contracts subject to compliance with the Contract Procedure Rules (as amended by any authorised variation) and subject to the scheme falling within the approved budget which includes the approved 5-year capital programme (Decision notices must be published for each award of contract unless administrative or minor or not closely connected with discharge of function.) (The signing of contracts is dealt with separately.)

consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget for the contract as such contracts are not closely connected to the discharge of the function.)			
CX, DCXs and ADs SMs – up to £85,000	Contracts – signing of contracts which are <u>not under seal</u>	Cabinet	(Contract Procedure Rule 17.2) Authority to sign contracts which are not under seal, and which come within the jurisdiction of the officer concerned. (Contracts under seal must be signed only by officers who have specific authority to do so – set out in the Council's Constitution
Officers of the Contracts team	Contracts - Authorised Officer of relevant team	Cabinet	(Contract Procedure Rules 14.2) Officers appointed as "Authorised Officer of relevant team"
CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (Any sub-delegations lasting more than 6 months must be reported to the MO)	Clarification of an invitation to tender	Cabinet	(Contract Procedure Rule 15.1) Authority to provide clarification of an Invitation to tender
CX, DCXs, ADs, and SMs	Post tender negotiations	Cabinet	(Contract Procedure Rules 15.2 to 15.6) (at least 2 officers are required – see rule 15.6) Authority to undertake post tender negotiations
CX, DCXs, ADs and SMs In consultation with the relevant portfolio holder (consultation is not required for termination of low value or minor contracts (£15,000 or less)	Authority to terminate contracts	Cabinet	(Contract Procedure Rule 27) Authority to terminate contracts subject to consultation with the MO and S151 Officer

PART 5 – CODES AND PROTOCOLS

(A) BOSTON MEMBER CODE OF CONDUCT

(B) OFFICER CODE OF CONDUCT

(C) PROTOCOL ON MEMBER AND OFFICER RELATIONS

(D) PROTOCOL ON THE MONITORING OFFICER

(E) PLANNING CODE OF GOOD PRACTICE (with Public Speaking at Planning Committee Policy)

(F) WHISTLEBLOWING POLICY

(G) SURVEILLANCE POLICY AND PROCEDURES

(H) MEMBERS' PROTOCOL ON DATA PROTECTION

(I) GRIEVANCE POLICY

(J) EXECUTIVE/SCRUTINY PROTOCOL

This page is intentionally left blank



Members' and Co-opted Members Code of Conduct

Adopted by Council: 27 June 2022

Boston Borough Council Members' Code of Conduct

Contents	Page
Joint Statement	3
Introduction	3
Definitions	3
Purpose of the Code of Conduct	4
General Principles of councillor conduct	4
Application of the Code of Conduct	5
Standards of councillor conduct	5
General Conduct	6
1. Respect	6
2. Bullying, harassment and discrimination	6
3. Impartiality of officers of the council	7
4. Confidentiality and access to information	7
5. Disrepute	8
6. Use of position	8
7. Use of local authority resources and facilities	9
8. Complying with the Code of Conduct	9
9. Interests	10
10. Gifts and hospitality	10
Appendices	12
Appendix A – The Seven Principles of Public Life	12
Appendix B – Registering interests	13

Joint Statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.

Boston Borough Council resolved on 27 June 2022 to adopt the LGA Model Code of Conduct in its entirety.

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

The LGA will undertake an annual review of their Model Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. Boston Borough Council will consider the recommendations from any such reviews and adopt any changes it considers appropriate through its governance processes.

Definitions

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

- a) is a member of any committee or sub-committee of the authority, or;

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

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

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

Purpose of the Code

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

General principles of councillor conduct

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

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

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

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

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest

- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

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

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

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

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

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

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

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

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

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

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

2. Bullying, harassment and discrimination

As a councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such

conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

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

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

3. Impartiality of officers of the council

As a councillor:

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

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

4. Confidentiality and access to information

As a councillor:

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

2. made in good faith and in compliance with the reasonable requirements of the local authority; and
3. I have consulted the Monitoring Officer prior to its release.

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

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

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

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

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

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

6. Use of position

As a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

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

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

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

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

8. Complying with the Code of Conduct

As a Councillor:

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

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

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

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

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

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

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

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

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

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which ***affects*** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

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

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

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- 'director' includes a member of the committee of management of an industrial and provident society.
- 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management

PART 5

OFFICER CODE OF CONDUCT

Code of Conduct for Employees

1 Introduction

- 1.1 Local Government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate professional advice to Councillors and fellow employees with impartiality and to adhere to the 7 principles of public life:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

- 1.2 The public are entitled to expect this high standard of service and employees conduct should never be influenced by improper motives i.e. personal gain. The Code applies to all employees of the Council. Those employees involved in processing applications for services, licences or statutory consents (such as planning permission) and those involved in the procurement and purchasing of goods and services should pay particular attention to the Code.
- 1.3 This Code sets out the standards of behaviour expected from you as an employee of Boston Borough Council including the link between your employment and your private life.
- 1.4 This Code should be read in conjunction with other policies, procedures and codes of practice adopted by the Council.
- 1.5 This Code forms part of your terms and conditions of employment. Any breach of the Code may be treated as a disciplinary matter including gross misconduct which could lead to disciplinary action including dismissal where appropriate. For the avoidance of doubt you should seek advice from your manager on any query relating to the Code.
- 1.6 If you are aware of any breaches of this Code you should raise this with your manager immediately. You should also refer to the section of this Code on 'whistle blowing'.

<http://dunlop:8080/share/page/site/all-staff/document-details?nodeRef=workspace://SpacesStore/c47acf87-b809-4db7-8bb0-d4ab0b26ae01> (Whistle Blowing Policy)

<https://secure.speakinconfidence.com/company/en/boston>

2 Financial matters

2.1 Public Funds

You must follow the Councils Contract Procedure rules and Financial Regulations in any financial transactions and other dealings on behalf of the Council.

<http://www.boston.gov.uk/CHttpHandler.ashx?id=6313&p=0>

(Contract Procedure Rules)

<http://www.boston.gov.uk/CHttpHandler.ashx?id=6312&p=0>

(Financial Regulations)

2.2 Declaration of Financial and other interests

You are required by S117 of the Local Government Act 1972 to declare any financial interest, whether direct or indirect, in any existing or proposed contract. The declaration should be made, in writing, to your Head of Service/Director/Chief Executive who will inform the Council's Section 151 Officer of the contents of the declaration.

2.3 Financial inducement, gifts & hospitality

Section 117 of the Local Government Act 1972 provides that it is an offence for an employee to accept any fee or reward other than the proper remuneration for the role in the course of their duties. It is important that you are able to recognise what is and is not acceptable. You should have regard to the Council's guidance on gifts & hospitality. You should also have regard to the role you perform at the Council and whether it might be possible for others to allege undue influence where gifts and/or hospitality may be given e.g. if you work in a regulatory function and, where necessary, seek advice and guidance from your Head of Service.

2.4 You should treat with extreme caution any offer of a gift, favour or hospitality that is made to you personally. The person or organisation making the offer may be doing or seeking to do business with the Council or may be applying to the Council for some decision to be taken in his favour or someone with whom he is connected. Examples could include (but are not limited to) planning permission, contracts, tenancies of land or buildings, or licences to operate businesses.

2.5 There are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be an appropriate

way of doing business provided they are approved either by the Council or by a Head of Service and provided no extravagance is involved. In the same way it may be reasonable for staff to represent the Council at a social function or sporting event organised by outside persons or bodies. Officers attending such functions or events as part of an official Council delegation (e.g. official opening of sports/art facilities) are exempt from the above registration requirement, providing their attendance has been approved by the relevant Director or Heads of Service.

- 2.6 Each employee is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding risk of damage to public confidence in local government. The receipt and detail of gifts and hospitality should always be reported to the Monitoring Officer (via Democratic Services) so that a record can be kept in the Gifts and Hospitality Register. Offers must be recorded, even if they are declined. The Register will be open to the public for inspection.
- 2.7 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operated by the Council and told why hospitality cannot be accepted.
- 2.8 You should not accept significant personal gifts from contractors and outside suppliers, although the Council will allow employees to keep insignificant items of token value such as pens, calendars and diaries. These insignificant items do not require recording in the Gifts and Hospitality Register.
- 2.9 When receiving authorised hospitality staff should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 2.10 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal and where the employee is satisfied that any purchasing decisions will not be compromised. Where visits to inspect equipment, supplies or services are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 2.11 In addition the following may assist employees as it is not just sufficient to make declarations where gifts etc are received. There should be serious thought given to whether anything more than a token gesture should be accepted e.g. pens, diaries, boxes of chocolates. Where accepting anything else is not appropriate but it would cause offence to not accept, the item could be accepted and given to the Mayor's charity.
 - (i) Any gifts relating to a regulatory function should be declined as this could be viewed as seeking to influence the outcome of a regulatory

decision. This would include Planning, Licensing and Private Sector Housing.

- (ii) If the gift is received after the conclusion of a matter and is under £5, there is no reason why the recipient can't retain the gift. If it exceeds that value, and to decline would cause offence, the gift should be donated to the Mayor's Charity. We do need to consider what is appropriate and anything over the value of approximately £25 should be politely declined.
- (iii) Any prizes won by employees in the course of their work i.e. through competitions at events or through mail shots etc should be carefully considered and advice should be sought if in doubt. Anything other than insignificant items, such as pens or diaries, should be recorded whether accepted or not.

- 2.12 You must be aware that it is a serious criminal offence for you to receive or give in a corrupt manner any gift, loan, fee, reward or advantage from or to another person to do or not to do anything or to favour or disfavour. If an allegation is made, you should be able to prove that any such rewards have not been corruptly obtained. If you are at all unsure about any offer of a gift you should clarify this with the Monitoring Officer.

3 Contracts

- 3.1 If your role involves the engagement or supervision of contractors and you have currently or previously had a relationship with an existing or potential contractor in a private or domestic capacity, you should declare that relationships to your Head of Service.
- 3.2 If you are privy to confidential information on tenders or costs on contracts or tender exercises you should not disclose this information to any party without express consent.
- 3.3 You must ensure there is no special favour shown to current or former relatives or associates in awarding contracts to businesses where they have a connection or employing them. You should not take part in any decision making relating to such contracts following a declaration to your Head of Service.

4 Sponsorship

- 4.1 Where the Council sponsors an event or service, you or any close family or friend should not benefit from that sponsorship and you should declare any potential conflict and/or benefit at the earliest opportunity to your Head of Service/Director/Chief Executive.

5 Use of Council property, facilities and equipment

- 5.1 You should use Council property, facilities and equipment for Council purposes. Limited personal use of telephones etc is allowed in exceptional circumstances. You should not use council vehicles or other resources for personal use.
- 5.2 When using the Councils communication systems you should have regard to the Council's ICT policies, procedures and protocols and have particular regard to data protection. This includes all written forms of communication including emails. Please see the IT Policy for further details.

<http://wright/php/itpolicy/doku.php>

6 Use of mobile phones

- 6.1 The use of mobile phones and devices are strictly prohibited whilst driving council vehicles, using machinery or carrying out other tasks where health & safety may be at risk by a lack of concentration.
- 6.2 The use of personal mobile phones in the workplace should be kept to an absolute minimum. Calls and alerts, whether taken or not are disruptive to others and do not present a professional image. Phones should ideally only be used on breaks or in urgent situations and mobile phones should not be kept visibly at a workstation or area.

7 Miscellaneous

7.1 Customers

You should remember that the Council is a public body and you have a responsibility to the community you serve. You should provide courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Council.

7.2 Equalities

You should at all times recognise the diverse needs of individuals and groups within the community and you should ensure that the Council policies relating to equality and fairness are complied with in addition to the law. You should recognise that all members of the local community, customers, employees and elected members have a right to be treated with dignity, fairness and respect.

7.3 Relationships with other employees

You should treat all colleagues with courtesy and respect and be mindful of different backgrounds, beliefs.

<http://dunlop:8080/share/page/site/all-staff/document-details?nodeRef=workspace://SpacesStore/3f657429-1c95-40e9-9ba0-4e4e7cd9d570> (Bullying and Harassment Policy)

You must declare any personal relationship with another employee of the Council where this may cause, or be perceived to cause, a conflict of interest. The declaration should be made to your Head of Service.

The organisation recognises that employees who work together may form personal friendships and in some cases close personal relationships. While it does not wish to interfere with these personal relationships, it is necessary for the organisation to ensure that all employees behave in an appropriate and professional manner at work. The following principles have therefore been devised, and apply to all employees regardless of their job or level of seniority.

- Any employee who is involved in a close personal relationship with a colleague, contractor, client, customer or supplier must not allow that relationship to influence his/her conduct while at work. Intimate behaviour during work time, for example kissing, touching or holding hands, is expressly prohibited. This rule applies during all working time, whether at the normal workplace, on clients' premises or elsewhere. Any breach of this rule will be regarded as a serious disciplinary offence leading to disciplinary action up to and including dismissal.
- Any employee who embarks on a close personal relationship with a colleague working in the same department/section must declare the relationship to his/her manager. If the relationship is between a manager/supervisor and an employee whom he/she supervises, the relationship should be declared to a senior manager. The information declared will be recorded on the personal files of both employees and treated in strict confidence.
- In order to avoid a situation in which an employee has managerial authority over another with whom he/she is having a close personal relationship, the organisation reserves the right to elect to transfer one or both of the employees involved in the relationship to a job in another department/section. In these circumstances, the

organisation will consult both of the employees and seek to reach a satisfactory agreement regarding the transfer of one or both of them.

- In such a situation, if it is not possible to transfer at least one of the employees (for example if no suitable vacancies exist, or if an employee refuses to transfer), the organisation reserves the right to dismiss one or both employees (with notice in accordance with the employee's contract, or pay in lieu of notice). Dismissal would, however, be undertaken only as a last resort in circumstances where no other course of action was reasonably open to the organisation.
- Similar principles apply to an employee who begins a close personal relationship with a client, customer, contractor or supplier. If the employee's job allows him/her authority over the client, customer, contractor or supplier (for example if the employee has the authority to decide to whom to award contracts), the relationship must be declared to the employee's manager. In these circumstances, the organisation reserves the right to transfer, or as a last resort to dismiss, the employee following consultation with him/her.

7.4 Appointments and other employment decisions

Where you are involved in appointments you should ensure that these are made on merit. You should not be involved in any appointment, whether on the panel or as a referee where you are related to the application or have a close performance relationship with them.

You should not be involved in decisions relating to discipline or other sanction or in decisions relating to pay where you are related to or have a close personal relationship with the employee who is subject to that decision.

You shall not directly or indirectly seek the support of any Councillor or any appointment with the Council for yourself and others.

You will be disqualified from that appointment if you lobby Councillors indirectly or directly for appointment to a new post within the Council and any such action may constitute a disciplinary offence.

7.5 Standards of dress and appearance

You must ensure that your standard of dress, the type and style of clothes and personal ornamentation worn are appropriate to the nature of the duties and responsibilities you undertake. This will be particularly important in a customer facing role. All employees are required to comply with rules for wearing personal protective equipment (PPE) for health & safety reasons.

7.6 Alcohol & drugs

You are expected to attend work without being under the influence of alcohol or drugs.

Where you are involved with illegal drugs or excessive consumption of alcohol outside of work, this Council will consider the impact this may have on your employment, including any impact on the Council's reputation and/or public confidence. There may also be a direct impact on your work where a driving or other licence may be suspended or revoked as a result of any such behaviour.

7.7 Conflicts of interests

You should not conflict your public duty to your private interests and should not put yourself in a position where they conflict.

If you are involved in the determination of regulatory matters (e.g. Planning, Licensing, Council Tax and Housing Benefit) you must take no part, either directly or indirectly, in considering any application made by yourself, a relative, friend, close associate, neighbour or where you have any interest in any such matter whether business or personal.

Where matters may usually be delegated to officers to decide if it involves a member of staff this will automatically be sent to the Committee for determination.

You should disclose any personal interest that could conflict with the Authority's interests. This may include interests which may impact on your work in e.g. any hobbies or other interests that may impact on your work e.g. something that mainly occurs during the night if you are due to work the next day or something which may cause absence from work such as particularly dangerous sports. Membership of a secret society must be disclosed in confidence to your Head of Service or Monitoring Officer.

7.8 Secondary Employment

If you are a member of the Corporate Management Team you shall devote your whole time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without express

consent from the Chief Executive. We recognise that due to the nature of modern working patterns and arrangements it may be common for senior staff to hold office or employment elsewhere. Consent will only be given where there is not deemed to be a detrimental impact on the Council's interests or reputation or where your work performance will not be affected.

Other members are staff may undertake secondary employment however any such employment should not conflict with the Council's interests, nor bring it into disrepute and it must be undertaken outside your normal working hours. You should not undertake any private work in Council premises or using Council property or equipment. You should consider any conflict with your work at the Council e.g. working hours particularly where there are regulatory restrictions such as for drivers.

You should notify your Head of Service of any such employment undertaken. This notification does not remove the right of the Council to take action against you where the secondary employment is deemed to be detrimental to the interests or reputation of the Council or where it may affect your work performance for the Council. Your primary employment with the Council must take priority where any conflict may arise.

8 Management of information

8.1 Disclosure of information & confidentiality

The Council is committed to open government. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. You should not communicate to the public the proceedings of any committee meeting or the contents of any document relating to the Council or information relating to any individual where that information is confidential/and or exempt unless expressly authorised to do so.

You have a duty of confidentiality to your employer and have all signed up to the Confidentiality Agreement upon starting employment. You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

Intellectual property (the generic term that includes inventions, creative writings, software and drawing) arising in the course of your employment are the property of the Council and you should not use that intellectual property for personal benefit.

8.2 Information management and probity of records and other documents

You should not deliberately falsify any records or other documents for financial advantage or otherwise. Such actions will be regarded as gross misconduct and may lead to dismissal as well as criminal sanctions.

You have a responsibility to:

- to handle the information they collect and use in their day-to-day work correctly and in line with the policy, principles and procedures set out in this Framework
- to make sure that records are complete and legible
- to keep records accurate and up to date
- to keep track of records
- to make sure confidential records are kept secure
- to follow the Council's retention schedules for all records
- to destroy records according to the Council's disposal policy for the destruction of confidential waste.

8.3 The media

You should not communicate with the media on any matters relating to the Council without the prior approval of your Head of Service. You should direct any media enquiries to Communications who handle all the council's proactive and reactive media communications. This ensures consistency and accuracy in delivery of the council's messages.

8.4 Social Networking Sites

If you use social networking sites either in your work or private life you should have regard to the Council's policy on social media and be aware of offence that may be caused to colleagues and other parties and of bringing the council into disrepute. Any breach of the policy may be considered a disciplinary offence. Use of Social Media within the course of your work should be carefully managed particularly in relation to investigatory roles. Please refer to the Social Media Guidelines for further information.

<http://dunlop:8080/share/page/site/all-staff/document-details?nodeRef=workspace://SpacesStore/ed5af87b-b55b-4970-b9f5-cf3bdfd1d005> (Social Media Guidelines)

9 Public concern & whistle blowing

The Council does not tolerate any form of malpractice. As an employee of the Council you have important part to play in reporting any concerns and you will be expected to co-operate with investigations.

The Council recognises that it may be difficult for you to report legitimate concerns though fear or victimisation or reprisal. In such circumstances you should follow the Councils Whistle Blowing procedure or report it under the Speak in Confidence tool.

10 Working with elected Members

10.1 Political neutrality

You work in a political environment and must have regard to this .You must serve the Council as a whole, serving all elected members and not just those of the controlling group. You should give advice which does not compromise your political neutrality.

You should ensure that whilst at work you remain impartial whatever your personal views.

You must follow the lawfully expressed policies of the Council and not allow your personal or political opinions to interfere with your work.

Where you are requested to advice any political group you should notify your Head of Service and ensure there are adequate safeguards to ensure your political neutrality. You should have regard to the Member/Officer Protocol.

10.2 Relationships with members

You should not place yourself in a position where close familiarity with a member prejudices your work. You should have regard to the Member/Officer Protocol and close familiarity should be avoided.

You should declare any relationship with a Councillor where the relationship could cause, or be perceived to cause a conflict of interest.

This page is intentionally left blank

PART 5 (SECTION C)

PROTOCOL ON MEMBER AND EMPLOYEE RELATIONS

1. Introduction

- 1.1 Government guidance for the preparation of local authority constitutions refers to the perceived requirement for a protocol to underpin member/officer relations. This accords with the recommendations of the Nolan Committee's Report on Standards of Conduct in Local Government that every local authority should have its own written statement or protocol governing relations between members and officers.

Please note the term "Officer" is not considered to be as inclusive as "employee" due to the professional nature of the roles Officers are deemed to undertake, which does not necessarily include all staff. Therefore, this Protocol applies to all employees of the Council and where the term "Officer" is used, that person is also considered an employee.

- 1.2 The guidance suggests that protocols should be developed locally to reflect local political arrangements and approaches but gives an indication of those areas that are expected to be covered in each protocol. In adopting this protocol, the Council has had regard to broad headings proposed in the guidance.
- 1.3.1 The purpose of this protocol is to guide members and employees of the Council in their relationships with one another. Generally, it is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues that most commonly arise but it should be noted that where members or officers do not comply with the Protocol, this could give rise to a breach under the Members' Code of Conduct or the Officer Code of Conduct.

2. Principles Underlying Member/Employee Relations

- 2.1 The Nolan Report suggests that;

'No local authority can function properly without a good relationship between its councillors and its officers. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.'

The general principles which govern the conduct of members (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) which are embodied in The Relevant Authorities (General Principles) Order 2001 require members to respect the impartiality and integrity of an authority's statutory officers and other employees. Those principles are equally appropriate for employees in their dealings with members.

2.2 This protocol should also be read in conjunction with the Members Code of Conduct and Officer Code of Conduct which are designed to ensure high standards of conduct and probity within the Council. Together they contribute to the effective and efficient transaction of Council business and ensuring that the Council is not brought into disrepute. The main principles that underpin the codes are:-

- Mutual respect and courtesy both between members and between officers and members;
- An awareness of each other's responsibilities and duties;
- Equal treatment, regardless of personal, political opinions or any other factor;
- An adherence to the law and the lawful instructions and advice of others;
- An avoidance of close personal familiarity.

Public confidence in the integrity and honesty of both members and employees is critical to the Council's community leadership role and compliance with the Codes and this Protocol will serve to enhance local democracy.

3. The Roles of Members and Employees

3.1 The roles of members and employees have changed with the Local Government Act 2000 and the introduction of executive decision-making (the great majority of decisions now fall within the remit of the Cabinet). The greater impact upon the time of individual members brought about by the new system has tended to blur the traditional distinction between the roles of members and employees. Nevertheless members and employees do have separate roles which should be readily distinguishable. These are defined more specifically in the Council's constitution.

3.2 Members are democratically elected and are accountable to the electorate for their actions. An important feature of each member's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. The expectation is that members will be more aware of the views of their constituents on major policy developments before decisions are made. The Executive Leader and other executive councillors are responsible for the delivery of those policies. Members who sit on overview and scrutiny have an important role in both holding the executive to account and in contributing to policy development. Members of regulatory panels make decisions on applications by the public for permissions and licences of varying types.

- 3.3 Employees are responsible for day-to-day managerial and operational decisions within the Council and should provide support to both the executive and all members in their several roles. They are employed by and accountable to the Council as a whole under the ultimate authority of the Head of Paid Service. The Cabinet system can create tensions and conflicts of interest for employees servicing both the executive and overview and scrutiny and the executive and the Council. Members should recognise the potential difficulties that this can present and should respect the obligation placed on employees to serve the Council as a whole.
- 3.4 In this protocol, any reference to a senior officer is a reference to the Head of Paid Service, Corporate Directors and Heads of Service as defined in the Council's constitution.
- 3.5 Certain employees, commonly referred to as "statutory officers", derive some duties and responsibilities directly from legislation. The Council's statutory officers are –
- the Head of the Paid Service is the Council's principal adviser on matters of general policy;
 - the Council's Monitoring Officer is required to report on any proposals, decisions or omissions which in their view are likely to result in a contravention of the law or which fail to comply with legal duties, are unjust or fail to take account of an applicable code of practice; and
 - the Director of Resources, who as the Council's Chief Financial Adviser is required to report on any proposal, decision or course of action which would involve incurring unlawful expenditure, or is unlawful or is likely to cause a loss or deficiency or if the Council was proposing to enter an item of account unlawfully.
- 3.6 There may be occasions when a Statutory Officer's responsibilities may conflict or not wholly correspond with a strategy, policy, decision or course of action proposed/taken by the Council or a member. In those circumstances members should acknowledge the primacy of the statutory responsibilities and treat the Statutory Officer with the same courtesy and respect shown to them and to other employees in all other dealings.

4. Employer/Employee Issues

- 4.1 Any dealings between members and employees should be conducted with mutual respect, trust and courtesy. The Council is an employer and Members should have due regard to their role in dealings with employees and be conscious that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved employee. The Council as an employer must provide a safe environment for employees to work within and Members conduct towards employees forms part of this environment. For the avoidance of doubt, shouting and swearing at

employees, whether in a group setting, in public or in one to one situation, is not acceptable in the workplace.

It is proper for a member to make written or oral representations about a matter affecting a constituent who also happens to be an employee but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the employee in any disciplinary or grievance procedures brought against the Council by the employee.

- 4.2 Members should not place inappropriate pressure on employees and must ensure that all communication between them (including both verbal and written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust, respect and courtesy in member/employee relations.
- 4.3 In seeking advice and support, members should recognise that, whilst those employees owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and the Head of Paid Service and not to an individual member. For this reason, members should not give direct instructions to employees, unless they are authorised to do so by the Council's constitutional arrangements. If so authorised, instructions should, under normal circumstances, still be given to a senior officer and not to a more junior employee.
- 4.4 In particular, members and employees should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. Such principles will apply equally to the implementation of personnel and other policies, recruitment and promotion as they apply to day to day dealings with members of the public.

5. Mutual Respect and Courtesy

- 5.1 Officers have a duty to all Councillors to give high quality professional advice, which must be politically impartial.
- 5.2 For the effective conduct of Council business there should be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Councillors and Officers.
- 5.3 Officers and Councillors should, particularly in the public forum, be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of Officers should, wherever possible, be handled beyond the glare of public scrutiny – particularly the media which in extreme cases may lay the person open to challenge in the courts. By the same token, Officers should never publicly criticise decisions taken by the Council or any of its committees.

- 5.4 National custom and practice has traditionally recognised that whilst there should be mutual respect between Councillors and employees, the development of close personal relationships is incompatible with their different roles. It is undesirable that such relationships should be allowed to become so close or appear to be so close as to bring into question the Officer's ability to deal impartially with other Councillors and other parties.

In the event a Councillor and employee develop a close personal relationship, by way of example where a friendship extends beyond the confines of a working relationship and becomes social outside of working hours, advice should be taken from the Monitoring Officer as to whether this relationship should be declared in accordance with the provisions of the Officer Code of Conduct.

Where a family relationship exists or where a friendship was in place prior to the Councillor being elected or the employee commencing employment, this must be declared by the employee in accordance with the Officer Code of Conduct.

6. Relationships between Cabinet and Officers

- 6.1 Any decision by the Cabinet must be supported by a written report by the appropriate employee. An employee's obligation to the whole Council requires the advice to be tendered professionally and impartially and Cabinet Portfolio Holders should not seek to suppress or amend any aspect of such professional advice.
- 6.2 Reports to the Cabinet will normally be produced by employees but there may be occasions when a Cabinet Portfolio Holder prepares a report. In either situation, the appropriate employee shall place on record his/her professional advice to the Cabinet and ensure that advice is considered when a decision is taken.
- 6.3 As part of their duties, employees will represent (both internally and externally) the decisions of the Cabinet. Other members should recognise that, in doing so, an employee is representing an executive decision of the Council.

7. Relationships between Overview and Scrutiny and Officers

- 7.1 Overview and scrutiny plays an important role within the Council in holding the Executive (Cabinet) to account and in the formulation of policy. The committees may seek the advice of the Monitoring Officer and the Chief Finance Officer where they consider there is doubt about the legality or financial probity of any decisions or prospective decisions of the Cabinet or where these may be contrary to the Council's policy and financial framework.

- 7.2 When requiring employees to give evidence to an Overview and Scrutiny Committee, the Committee and its Chairman shall not, without the consent of a member of the Corporate Management Team, request the attendance of a junior employee. When employees are required to give evidence before an Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Employees must respond to questions from members in an open, constructive and helpful manner. Employees must not be misleading or economical with the truth in their answers. The Chairman of an Overview and Scrutiny Committee shall ensure that Cabinet Members and employees are not questioned (whether through the nature, tone or language used) in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, discriminatory or otherwise unacceptable or inappropriate.
- 7.3 Where they consider it appropriate, the Chairmen of the Overview and Scrutiny Committee may ask the Head of Paid Service, Corporate Directors and Heads of Service to explain any advice given to the Cabinet or individual Portfolio Holders and explain any decision(s) that they may have taken under the Council's scheme of delegation. Any private or confidential matter must be dealt with in a private or confidential manner.

8. Relationships between Other Committees and Officers

- 8.1 Decisions made by other Committees etc. must be taken collectively, normally following the receipt and consideration of a report by the appropriate employee. Such advice will be independent and professional. Due to the nature of the business conducted by the Planning Committee, a separate Code of Good Practice for Planning has been approved by the Council.

Reports to other Committees will normally be produced by employees but there may be occasions when a Cabinet Member prepares a report. In either situation, the appropriate employee shall place on record his/her professional advice to that Committee and ensure that advice is considered when a decision is taken.

9. Relationships between Political Groups and Officers

- 9.1 Political groups comprising members of an individual political party are a recognised feature of local government and it is common practice for such groups to give preliminary consideration to matters of business in advance of their consideration by a relevant Council body.
- 9.2 Employees will not attend group meetings of the Council's political parties.
- 9.3 Employee support to members of political groups must not extend beyond providing information in relation to matters of Council business. When giving advice in such circumstances, employees must demonstrate political impartiality and must not suppress their professional advice in the face of political views. Employees must not champion, defend, action or spend any

resources of the Council on, or be held responsible for actioning in any way whatsoever, the decisions of a political group, unless and until such decisions have become the formal decisions of the Council and any consequential provision has been made in the Council's Medium Term Plans and/or Revenue Budget.

10. Relationships between Individual Members and Officers

- 10.1 The Leader, Deputy Leader, individual Portfolio Holder, Committee Chairman, Group Leader or such other members nominated by a Group Leader may request a briefing from the Head of Paid Service, Corporate Directors or senior officer on matters of policy which have already been or may be discussed by the Council or within its decision-making or advisory processes. All such requests should be addressed to the appropriate senior officer.
- 10.2 Local members have an important role to play in representing the Council in their constituencies, responding to the concerns of their constituents, in meetings with partners and when serving on outside organisations. It is essential for the efficient functioning of the Council that members should be fully informed about matters on which they may be required to make decisions or which affect their wards. Senior Officers should ensure that all relevant staff are aware of the requirement to keep local members informed and that, as far as practicable, the timing of such information allows members to contribute to those decisions. Local members shall also be kept informed about matters affecting their wards during the formative stages of policy development. Whenever a public meeting is organised by the Council to consider a local issue, all of the members representing the ward(s) affected should, as a matter of course, be invited to the meeting.
- 10.3 Members will be asked by their constituents, from time to time, to pursue matters on their behalf. Where such matters affect the Council, a member may request information or advice from the appropriate employee and such a request should only be refused if a member cannot demonstrate a 'need to know' – see paragraph 12.2 and reference the Members' Protocol on Data Protection 3.1.1. Such action is without prejudice to the right of a member to raise an item at any meeting of the Cabinet or another committee and particularly an Overview and Scrutiny Committee.

11. Political Neutrality and Officers

- 11.1 As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is especially important in the context of overview and scrutiny.
- 11.2 However, where a political group or combination of political groups have majority control of the Council, senior officers have a responsibility to assist the political administration of the Council in implementing their policies. Where this occurs it is recognised that the relationship between Officers, particularly those at a senior level of the Council, and the administration will differ from that with opposition groups.

- 11.3 Upon a change in political administration, Officers will serve the incoming administration in the same way as the outgoing, and will continue to respect any continuing political confidentiality except in so far as it adversely impacts on the operation of the Council.
- 11.4 Officers, whether or not politically restricted, must not allow their personal or political opinions to interfere with their work. This requirement for impartiality is all the more important in respect of an Officer who exercises regulatory functions in respect of the Council itself and is called upon to adjudicate between the Council and the Cabinet.

12. Access to Documents and Information

- 12.1 A member's right to access to documents and information is described in the Access to Information Procedure Rules in the Council's constitution.
- 12.2 In addition, a member has a right to inspect Council documents *so far as his/her access to the documents is reasonable necessary to enable the Member properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the 'need to know' principle. It applies equally to the leaders of political party groups who, although they may be able more readily to substantiate a requirement for information, still have to demonstrate that their request is proper and reasonable and give adequate reasons for requiring the information. Access to such information will vary from member to member and will arise at different times. As such, a Member's 'need to know' will be considered on a case by case basis and will not last indefinitely.
- 12.3 The right of access to information is subject to an additional safeguard and if the motive of the member in requesting to see documents is indirect, improper or ulterior, a request to inspect documents will be refused. Furthermore the law does not entitle a member to go on a 'roving or fishing expedition' or to receive every working document that employees have access to or may have had access to in the past.
- 12.4 A Member is only entitled to see those documents that are relevant background papers mentioned in any report to a meeting or which are to be taken into consideration in the making of an executive decision by the Cabinet or a Key Decision by an employee or where information would be available under the Freedom of Information Act 2000. However, an overview and scrutiny committee may request information that is exempt or confidential if it relates to a matter that they are scrutinising.
- 12.5 Confidential information that is obtained by a member must not be disclosed to another person. Any such breach of confidence may result in a complaint to the Monitoring Officer or, if sufficiently serious, to a civil action against the member and/or the Council for damages. Reference should be made to the Members' Protocol on Data Protection.

- 12.6 Briefing meetings, where discussion of draft papers is involved, are not open to other councillors or the public as they are not available under the Freedom of Information Act.
- 12.7 Both Members and Officers are subject to the requirements of the Data Protection Act and where Members request personal information relating to individuals, reference should be made to the Member Data Protection Protocol.

13. Relations with the Media

Officers

- 13.1 Only Officers authorised by the Chief Executive, their Corporate Director or Head of Service to do so may talk to the press, or otherwise make public statements on behalf of their service area. Generally speaking, an employee contacted by the press should refer the matter to their Corporate Director or Head of Service who will deal with it as appropriate.
- 13.2 Officers authorised under paragraph 13.1 may comment on matters which are the subject of delegation, but will need to exercise judgement and integrity in making such comment. Representatives of the press must be requested to seek political comment from the Leader or Deputy Leader of the Council or the appropriate Cabinet Portfolio Holder or Chairman of the appropriate Committee.
- 13.3 When preparing draft press releases the appropriate Cabinet Portfolio Holder and/or Ward Members (where appropriate) will normally be approached for comments.
- 13.4 Information published on the Council's behalf must comply with the statutory Code of Practice, i.e. be objective, balanced and non-party political.

Members

- 13.5 The Council's adopted Communication Policies provides as follows:-
- The Leader of the Council is the lead spokesperson for those communications activities identified as corporate communications areas. As the principle spokesperson for the Borough, the Leader may also choose to take a lead in the media on major corporate announcements even when they are usually matters for Cabinet Members to comment on, for example on a large scale leisure investment announcement.
 - Cabinet Portfolio Holders are the lead spokespeople for service related media activity. As such they will be the quoted spokesperson for issues within their remit.

- Where it is inappropriate for legal, or other reasons, for an elected Member to act as spokesperson it may be necessary for the Chief Executive, or another officer to act as the spokesperson.

13.6 When dealing with the press not in their capacity as a nominated spokesperson for the Council, Members will endeavour to ensure the press are both aware and give clear pointed acknowledgment of the fact that they are acting in their own capacity and not as a spokesperson for the Council.

13.7 From six weeks prior to full elections, no Council publicity will be produced with names of individual Members of the Council other than the Mayor in his or her official capacity, throughout the period until the publication of the election results. This is the period of time known as Purdah.

14. Enquiries and Access to Service Areas and Property

14.1 As a general rule, a Councillor's first port of call for advice on routine matters should be the relevant Head of Service or Line Manager. Only in those cases where the Councillor is dissatisfied with the response should the relevant Corporate Director be approached. Under normal circumstances Councillors should refrain from approaching junior members of staff to seek advice, information or to ask for work to be carried out. Councillors have a position of authority within the Council and junior employees may not be aware of all appropriate rules and guidance in releasing information or undertaking work requested and may feel they are unable to say "no" leading to possibility of undue influence being exerted.

14.2 In the interests of operational efficiency, where possible, Councillors should make advance appointments to visit departments (excluding Member Support) or Council facilities in order to reduce disappointment if an Officer is not available. Care should be taken as unnecessary presence in offices may create Data Protection issues or impact on the ability of employees to undertake their work – particularly in the larger open plan offices. Reference is made to the Members' Protocol on Data Protection paragraph 3.1.3

14.3 Unless authorised by the appropriate Committee, a Councillor must not claim to exercise any right of the Borough Council to inspect or enter any property (whether Council or private) or gain access to Council information systems etc. For the avoidance of doubt, this provision does not preclude Councillors from undertaking site inspections, familiarisation visits or tours of Council or private facilities where appropriate arrangements have been made in advance with the relevant Corporate Director or Head of Service.

15. Support Services

15.1 Members are provided with a range of information and support services to assist them in their policy and representative roles. Members should not use such information and support in connection with party political or campaigning activity or for purposes not related to Council business.

- 15.2 Administrative support is provided to enable members to carry out their official duties and roles as Councillors effectively. These services can be accessed via the Civic & Member Services Officer who also provides a research facility and co-ordinates attendance at training courses, seminars, external meetings etc as required.
- 15.3 Some limited support will also be provided for ward surgeries including the design and production of posters and notices. Accommodation costs associated with the provision of ward surgeries will be reimbursed to a maximum of £50 per Councillor in any one financial year upon production of appropriate receipts.
- 15.4 Councillors are expected to comply with the specific guidance on computer security and data protection issued by the Council's IT Section from time to time and reference is made to the Members' Protocol on Data Protection.

16. Representation on External Organisations

- 16.1 The Borough Council has a wide range of contacts within the community through appointments to external organisations, both locally and regionally. These are a resource to be employed in the Council's best interests.
- 16.2 Appointments are made by either full Council or the Cabinet. These are usually made on an annual basis, unless the constitution of the organisation concerned states otherwise.
- 16.3 All appointments are subject to the requirement that the Member concerned must resign from the membership of an external organisation immediately upon ceasing to be a Member of this Council, where he/she has been appointed to that organisation as one of the Council's representatives, unless the Council agrees to their continuing.
- 16.4 Councillors should familiarise themselves with the Boston Members' Code of Conduct, particularly the requirement to comply with the Council's Code when acting for that body, except and insofar as it conflicted with any lawful obligations to which that body may be subject, and the need to declare an interest when an item involving that body is considered by the Council, Cabinet, Standing Committees and Working Groups.

17. Council Tax Arrears

- 17.1 A Councillor who has not paid an amount due in respect of Council Tax for at least two months after it has become payable, may not vote on matters concerning the level of Council Tax or the administration of Council Tax. If present at a meeting, he/she must disclose the fact that the provision applies to him/her. He/she may, however, speak. Non-compliance is a criminal offence.

16. Arbitration

- 16.1 Where necessary, the Head of Paid Service (or in their absence the Monitoring Officer) will arbitrate on the interpretation of this protocol.
- 16.2 Any breach of this Protocol that is considered to have also breached the Member Code of Conduct, and will be dealt with in accordance with the provisions of the Boston Member Code.

Members Obligations to Understand the Requirements of this Protocol

The Council will provide opportunities for training and Member development through the Councillor Development Group.

If a Member does not understand the meaning of the requirements of this Protocol, it is their personal responsibility to raise directly with the Monitoring Officer, their Group Leader or Chairman of the Councillor Development Group to ensure the appropriate training is identified and offered.

PART 5 (SECTION D)

PROTOCOL ON THE MONITORING OFFICER

1 INTRODUCTION

This Protocol describes the principal functions of the Monitoring Officer and the manner in which the authority expects him/her to discharge those functions.

2 FUNCTIONS

The principal functions of the Monitoring Officer shall be:

- (a) To report to the Council or the Cabinet in any case where it appears to him/her that any proposal, decision or omission by the authority in respect of any reportable incident has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989;
- (b) To investigate any matter which he/she has reason to believe may constitute, or where he/she has received an allegation that a matter may constitute, a reportable incident;
- (c) To maintain the registers of Members' and officers interests and the associated gifts/hospitality registers;
- (d) To act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Cabinet;
- (e) Responsibility for complaints, Local Commissioner (Ombudsman) and whistle-blowing functions of the authority;
- (f) Appointment as Proper Officer for the Freedom of Information Act 2000;
- (g) To consult regularly with the Head of Paid Service, the Chief Finance Officer and the Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- (h) A power to grant any application for a dispensation and to report any dispensations granted to the Audit and Governance Committee;

- (i) To ensure that Members and officers of the authority are fully aware of their obligations in relation to probity;
- (j) To report to the Cabinet and to the Council on the resources which he/she requires for the discharge of his functions;
- (k) To undertake all statutory Monitoring Officer functions in respect of Parish Councils within the area of the authority and to provide support and advice to such Parish Councils in maintaining policy, including:
 - (i) advice on the requirement for them to adopt a Local Code within 6 months of the publication of the relevant Model Code;
 - (ii) advice on the requirement for Members to notify the Monitoring Officer of any financial or other interests and of any changes in such interests, that such declarations will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that Parish Council Clerks are kept informed of any such declarations;
 - (iii) advice on the need to apply to the Monitoring Officer for any dispensations and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted; and
 - (iv) advice on any provisions under which individual complaints of misconduct by Members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committees for dealing with such complaints.
- (l) To determine requests for the use of the full version of the Electoral Roll in accordance with statutory requirements;
- (m) To act as Council co-ordinator for the purposes of the Regulatory and Investigatory Powers Act 2000 (RIPA)
- (n) To ensure that the Council's Constitution is updated on a regular basis to reflect best practice and statutory requirements.

3 RESOURCES

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- (a) The right of access to all documents and information held by or on behalf of the authority, including documents and information held by any officer or Member of the authority. For the purpose of clarification,

this right does not extend to documents and information held by or on behalf of any political party represented on the Council;

- (b) The right of access to any meetings of officers or Members (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- (c) The right to require any officer or Member of the authority, or any contractor of the authority, to provide an explanation of any matter under investigation;
- (d) A right to report to the Council and to the Cabinet, including a right to present a written report and to attend and advise verbally;
- (e) The right to require the assistance of any officer of the authority in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer;
- (f) A power to agree a local resolution to any complaint of maladministration or of breach of the authority's Code, in consultation with the Head of Paid Services and the Chief Finance Officer;
- (g) The right of access to the Head of the Paid Service and to the Chief Finance Officer;
- (h) The right, even after consultation and objection from either the Head of Paid Service and/or the Chief Finance Officer, to notify the Police, the authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with statutory functions.
- (i) The right to obtain at the authority's expense legal advice, either internally or from an independent external solicitor or barrister, on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so.

4 DISCHARGE OF FUNCTIONS

- (a) It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and Members of the authority should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes. The Monitoring Officer will automatically be included as a consultee on all Council reports;
- (b) The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc or by identifying alternative and

legitimate means of achieving the objective of the proposal. Accordingly, officers and Members of the authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;

- (c) Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such significance that a statutory report is the only appropriate response;
- (d) In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- (e) In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his written advice to the report of any other officer of the authority;
- (f) Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.

5 CONFLICTS OF INTEREST

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the authority, he/she shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Chief Executive or request a neighbouring authority to make their Monitoring Officer available to the authority to investigate the matter and report to the Chief Executive and/or the authority as appropriate.



Planning Code of Good Practice

Local Code of Good Practice
for Councillors and Officers
dealing with planning matters

CONTENTS

Section	Title	Page Number
1	Introduction	1
2	Status of the Code of Good Practice	2
3	General Role and Conduct of Councillors and Officers	2
4	Declaration and Registration of Interests	4
5	Predetermination and Bias	6
6	Dual-hatted Parish and Borough Councillors	7
7	Development Proposals Submitted by Councillors and Officers; and Council Development	7
8	Lobbying	8
9	Role of the Borough Council Ward Member	9
10	No Political Decisions on Planning Applications	9
11	Pre-Application Discussions	10
12	Officer Reports to Committee	10
13	Responses to Public Consultation	11
14	Planning Committee Meetings	11
15	Public Speaking Scheme	13
16	The Development Plan	15
17	Decisions Contrary to the Development Plan and/or Officer Recommendation	15
18	Committee Site Visits	16
19	Regular Review of Decisions	17
20	Complaints and Record Keeping	18
21	Training	18

1 Introduction

- 1.1 The conduct of both Officers and Members in Local Government needs to be of the highest standing: on this depends the bond of trust between Councils and their local people, which is essential if Councils are to play their part in leading communities and improving people's quality of life. The local administration of the planning system has come under close scrutiny. The Nolan committee's Third Report investigated standards in public life, and was followed by the Local Government Act 2000 which introduced a structure by which local authorities were to promote high standards of conduct, through a National Code of Conduct for Members. In 2013 the Local Government Association provided updated guidance on 'Probity in Planning' and the Localism Act 2011 created a new Standards regime with a more local focus.
- 1.2 This Code offers clear guidance and advice as to procedures and practices to elected Members, Officers and members of the public in connection with the determination of planning applications and other applications. This Code will ensure that not only are the applications determined in a fair and impartial way, but also in a way which is seen to be fair and impartial. The introduction of the Local Government Act 2000 and associated legislation provides the necessary statutory framework by which these standards may be achieved, maintained and regulated by each local authority.
- 1.3 The key purpose of the planning system is to contribute to the achievement of sustainable development and the approach to decision taking should be in a positive way. When performing this role the Local Planning Authority and elected members are making decisions that necessarily affect land and property interests, as well as the financial value and settings of land holdings. As such, there is a need to make decisions that are open, impartial and based on sound judgment and reason. The process of determining applications should leave no grounds for a suggestion that a decision has been biased or ill founded in any way. Decisions must always be made on planning grounds and planning grounds alone.
- 1.4 This Code of Good Practice has been adapted from national guidelines on probity to take account of the local situation. Two particular areas of the Localism Act are relevant to this code. Firstly, with regard to pre-determination the Act makes it clear that it is proper for councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintain an open mind. Secondly, and related to pre-determination, the Act introduces a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gives Members and local residents a chance to comment when there is still genuine scope to make changes to proposals at both pre-application and post submission stage.
- 1.5 The terms of Reference for the Planning Committee are set out in the Council's Constitution (www.boston.gov.uk) which specifies the matters that are delegated to be considered by the Planning Committee.

2. Status of the Code

- 2.1 This Code sets out the basis as to how Officers and Members should determine planning and other relevant applications submitted to the Council and ensures that conduct accords with the Council's Codes of Conduct for Members and Officers which are contained within the Council's Constitution.
- 2.2 This Code is contained in the Council's Constitution. A breach of this Code, depending on the circumstances, does not usually amount to a breach of criminal law, but may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or allegation of a breach of the Code of Conduct or a complaint of maladministration made to the Local Government Ombudsman.
- 2.3 Participation in consideration of a planning application where a Member has a Disclosable Pecuniary Interest would be a criminal offence under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

3. The General Role and Conduct of Councillors and Officers

- 3.1 Elected Members are guided by the Council's Code of Conduct, the seven principles of public life and the Localism Act 2012. This Code is further amplified by reference to the Council's Constitution in respect of general Council procedures as well as further explanation in specific Codes of Conduct, such as the advice contained in this Code.
- 3.2 Councillors and officers have different but complementary roles with the determination of planning applications and it is important that an open, respectful and transparent relationship is developed based upon mutual trust and understanding of each other's positions. It is important for the overall standing of the Council and the achievement of local performance targets that they work together as an effective team. The role of a Councillor when determining a planning application is to have an overriding duty to the whole community and, accordingly, in deciding the outcome of an application to make a reasoned decision taking into account the provisions of the Development Plan and all relevant material considerations.
- 3.3 The basis of the planning system is that consideration is given to all development proposals in an open and transparent way against policy. Much is often at stake in such decisions and in the process for local people and development interests, as well as for the Borough of Boston itself. Given the nature of these decisions opposing views are often held by those involved. Whilst these views must be taken into account in the determination of planning applications, as stated above, the Planning Committee must not favour any person, group or locality. Members must therefore take steps to ensure that in the discharge of their Planning Committee duties the distinction between this role and their role as an individual ward councillor is constantly made clear. If Members wish to act in the latter capacity they must make that clear at the outset. Members who do not feel that they can act in this way should consider whether they are best suited to serve on the Planning Committee, especially if they feel they will often be placed in the position of wishing to represent constituents and to speak as a Ward Member rather than a member of the Planning Committee.

- 3.4 In reaching a decision Members should ensure they read, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so.
- 3.5 All decisions should be made in an open and transparent manner by the Members of the Planning Committee and this should not at any time be compromised in any way. Therefore, such actions as messages being passed to Members of the Planning Committee during a debate should be avoided as this could give an impression of undue influence from a third party. In the first instance in an emergency any notes should be passed to the Democratic Services Officer.
- 3.6 Members should always address the Planning Committee through the Chairman and avoid speaking directly to one another. It is important that all matters being discussed are clearly heard and acknowledged by everyone at the meeting.
- 3.7 In order to ensure that decisions are taken on planning grounds and are sound, it is incumbent on all Planning Committee Members to give full consideration to reports prepared by Officers and familiarise themselves with all relevant national planning guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of a development proposal at the Planning Committee itself. It is important also that Members are seen to be meeting this provision of the code.
- 3.8 The role of Officers is to advise Councillors and the Council as a whole (through the Cabinet and relevant Portfolio Holders) and to carry out work as set out in the Corporate Plan and agreed business plans. Officers are employed by the Council, not by individual councillors, and it follows that instructions to them may only be given through a decision of the Council, the Cabinet, the relevant Portfolio Holders, or the Planning Committee.
- 3.9 The conduct of Officers who advise on the determination of planning applications is contained generally in the Council's protocol for Member/Officer relations and is supplemented by guidance from their professional bodies, such as The Royal Town Planning Institute, the Law Society etc. Officers may not be instructed by any Member to conduct themselves in a manner which would place them in conflict with their professional codes of conduct.
- 3.10 Members should abide by the following advice:-
- Members should always pass a copy of any lobbying correspondence to the Development Control Manager/Democratic Services Officer at the earliest opportunity;
 - Members should never pressurise or lobby Officers for a particular recommendation;
 - Members should promptly refer to the Head of Built Environment and Development any offers made to them for benefits which are or are not related to the application;

- Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying, approaches including inappropriate offers of gifts or hospitality (see also paragraph 3.12)
- Members should never use political group meetings to dictate how they should vote on a planning issue and should not lobby fellow Members regarding concerns or views, nor attempt to persuade other Members to vote in a particular way.

- 3.11 Officers are required to act impartially at all times in determining applications and providing advice at the Planning Committee. Officers will be expected to conduct themselves in all they say and do in a manner which totally preserves the position of impartiality.
- 3.12 During the determination of an application, it is possible that Officers and Members may be offered hospitality by an interested party. Even though this rarely occurs, it is important to recognise that these offers should be politely declined.
- 3.13 Under the Member's Code of Conduct there is a requirement for any offers of gift or hospitality received over the value of £50, to be notified to the Monitoring Officer within 28 days of the offer being received. Any offers will be entered into the register of gifts and hospitality which is open to public inspection. **It is particularly important for Planning Committee Members to decline any offers of gifts or hospitality.**
- 3.14 Similarly, for Officers, in the event of any offers of gifts or hospitality being received over the value of £25 these should be declined and reported to the Monitoring Officer as soon as possible after receipt. This is a requirement of the Employee Code of Conduct.

4. Declaration and Registration of Interests

- 4.1 Upon being elected Members are required to complete a form to register their disclosable pecuniary interests and local choice interests and are under a duty to maintain that declaration and amend, as necessary, within 28 days of becoming aware of any such changes, throughout their term of office.
- 4.2 A register of Members' interests will be maintained by the Council's Monitoring Officer and is available for public inspection.
- 4.3 Furthermore, Members are under a duty to declare interests as and when matters arise at the Planning Committee. Guidance on these issues may be sought from the Council's Monitoring Officer. The decision as to whether an interest ought to be declared rests with the individual Councillor involved.
- 4.4 Under the Member Code of Conduct, a member will have a conflict of interest in a Planning Committee decision if:
- The matter relates to an interest in respect of which the Member has given notice in the Register of Members' Interests; or

- The decision might reasonably be regarded as affecting their well being or financial position or that of a relative or friend or employer to a greater extent than other council taxpayers, ratepayers or inhabitants of the authority's area.
- 4.5 Where a Member considers they have such a conflict of interest in a matter, they must always declare it.
- 4.6 Where a conflict of interest is such that if a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it is likely to prejudice the Member's judgement of the public interest, they should declare that interest and take no part in the debate or vote on the item under discussion. There are exceptions to this, however, and full details are given in the Council's Constitution.
- 4.7 Where any Member of the Council considers that they have a significant conflict of interest as described in 4.6 they should:-
- Ensure they do not participate at any stage in the consideration of the planning application if, following advice from the Monitoring Officer, they consider that any decision they take could be challenged on the grounds of bias;
 - Ensure they do not seek or accept any preferential treatment, or place themselves in a position that could lead to the public to think they are receiving preferential treatment because of their position as a councillor.
- 4.8 Pecuniary Interests are defined in regulations. The regulations in general will mean that a member will have to register any interest they or their husband or wife or civil partner, or someone with whom they live as husband or wife or civil partner in:
- Any employment, office, trade, profession or vocation that they carry on for profit or gain;
 - Any sponsorship that the councillor receives including contributions to the councillor's expenses as a councillor, or the councillor's election expenses;
 - Any land licence or tenancy they have in the Borough
 - Any current contracts, leases or tenancies between the Council and them
 - Any current contracts, leases or tenancies between the council and any organisation with land in the Borough area in which they are a partner, paid director, or have a relevant interest in its shares and securities;
 - Any organisation which has land or a place of business in the Borough area and in which they have a relevant interest in its shares or its securities.
- 4.9 If a Councillor has a disclosable pecuniary interest they must leave the meeting immediately and cannot participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on that matter at the meeting. However, the Member can address the Committee as part of the public speaking scheme, but must leave the meeting immediately after taking part.

- 4.10 When an application is to be determined there is an expectation that it will be dealt with transparently, openly and in a fair way. Members will be expected to take account of all relevant evidence and give it appropriate weight in the decision making process and arrive at a reasoned sound decision.

5. Predetermination and Bias

- 5.1 Members of the Planning Committee need to ensure that they do not fetter their ability to participate in the decision making process on an application by making up their mind or clearly indicating that they have made up their mind on how they will vote prior to the consideration of the application by the Committee.
- 5.2 The Planning Committee should, when considering an application, take into account all views that are expressed in such a way that they are openly heard and fairly considered in a balanced way before the Committee reaches a decision.
- 5.3 Members of the Planning Committee can have a predisposition to an initial view, where the Member is clear they are still willing to listen to all material considerations presented at the Planning Committee before deciding on how to exercise their vote on behalf of the community.
- 5.4 The fettering of a members discretion as set out in 5.1 and then taking part in the decision making process will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to not take into account all of the factors enabling the application to be considered on its merits.
- 5.5 The Localism Act 2011 now sets out that a Member who has expressed a preference for a particular outcome of an application as it proceeds to determination, will **not** be taken to have had a closed mind when making the decision just because they have previously done or said anything to indicate their view in respect of the matter. However, it is important that a fair minded observer would think that the Member was open to changing their mind in the light of different or additional information, advice or evidence presented.
- 5.6 Planning Committee Members need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, Members taking the decision on an application must take account of all the evidence presented before arriving at a decision, and should avoid committing themselves one way or another, or making extreme statements either in favour or against applications, before hearing all the arguments.
- 5.7 A situation can arise when a Member of the Planning Committee represents a Ward within which a contentious application is lodged. If, prior to the matter being considered by the Planning Committee, that Member decides to make a public statement, and either supports or opposes the application, it will be difficult for that Member to be seen to subsequently determine the application transparently, openly and fairly. Accordingly, the Member should make an open declaration in relation to his or her position and not vote on the determination of the application at the Planning Committee. The open declaration should be noted in the Planning Committee minutes. The Member will also be required to leave the room for the

duration of the consideration of the item and vote. Where they have exercised their right to speak as Ward Member, they can address the Planning Committee at the appropriate time, in accordance with the Ward Member speaking arrangements, but must then leave the room immediately thereafter.

- 5.8 Ultimately, it is the responsibility of the individual member to ensure that their role on the Planning Committee is not compromised and it is also for them to strike a balance that may need to be made between ward and other interests and the requirements of the Planning Committee.

6.0 Dual-hatted – Parish and Borough Councillor

- 6.1 It should be appreciated that planning applications submitted to Parish Councils are referred for consultation. Parish Councils do not determine applications, but they have a statutory role as consultees; their role is to make comments to the Borough Council.
- 6.2 Planning Committee Members who are also Members of Parish Councils (Dual-hatted Members) may find that they are expected to express a view at the Parish Council meeting or vote on whether or not that Council should object or comment on a proposal.
- 6.3 In such circumstances, Dual-hatted Members should observe the advice relating to pre-determination and bias set out in section 5 of this Code.
- 6.4 Dual-hatted Members must appreciate that whilst they are entitled to speak and vote at Parish Council meetings, it can cause confusion for the public. Therefore, they should always take the following action:
- Declare at the Parish Council meeting that if the application was to be considered by the Boston Borough Council Planning Committee they may take a different view once they had heard all the relevant policies and guidance, background history and consultation responses from Officers and may find themselves voting differently;
 - If they are attending the Boston Borough Council Planning Committee when the matters if being discussed or reported, declare that they have attended a meeting of the Parish Council when the application was considered, but they have an open mind and will make a judgement based on the evidence provided and solely on planning considerations.

7. Development Proposals Submitted by Councillors and Officers; and Council Development

- 7.1 Proposals to the Council by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for the Borough's own development. Proposals can take the form of either planning applications or development plan proposals.
- 7.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital that they are handled in such a way that gives no grounds for accusations of favouritism.

- 7.3 Members should not act as agents for planning applications within the borough nor be involved in the preparation of plans associated with any such applications.
- 7.4 Where Members are submitting their own planning applications or development plan proposals these should be reported to the Development Control Manager. For significant applications Members should appoint an architect/agent to act on their behalf and the Council's Monitoring Officer will be informed of such proposals.
- 7.5 Significant applications will be reported to the Planning Committee and will not be dealt with by officers under delegated powers. The Officer Code of Conduct deals with these issues in respect of applications/proposals submitted by Borough Council staff.
- 7.6 The consideration of a proposal from a councillor in such circumstances would be considered as a prejudicial interest under the Member Code of Conduct and as such, the councillor would be required to withdraw from any consideration of the matter.
- 7.7 The Code also provides that the councillor should not seek improperly to influence a decision about the matter. It is important to emphasise that 'improperly' does not imply that a councillor should have any less rights than a member of the public in seeking to explain and justify their proposal to an officer in advance of consideration by a Committee.
- 7.8 Proposals for a council's own development should be treated in the same way as those of private developers (subject to the requirements of the 1992 General Regulations), particularly in relation to officers' advice.

8. Lobbying

- 8.1 It is recognised that lobbying is a normal and perfectly legitimate element of the process of considering planning applications. If a Member, who is not on the Planning Committee, wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting.
- 8.2 It is, however, important that Members protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties provided that they make it clear that they are keeping an open mind. However, expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality.
- 8.3 Lobbying may be verbal or by circulation of letters or documents to all or some Councillors. Lobbying can take two forms:-
- Lobbying of Councillors by applicants, agents or objectors
 - Lobbying by other Councillors.

- 8.4 Councillors should not organise support for or against a planning application and should not lobby other Councillors as this would signal that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the Committee.
- 8.5 Circulation of papers which have not been formally lodged with the Planning Officer or Democratic Services Officer prior to the meeting is specifically prohibited, as this could constitute lobbying.
- 8.6 Whenever lobbying takes place Members should record the key discussion points on the standard form issued by the Council, copies are available in the Members' Lounge or from Democratic Services. . This form should then be submitted to the Democratic Services team prior to the commencement of the meeting so that the information can be formally reported and recorded at the start of each committee meeting.

9. Role of the Borough Council Ward Member

- 9.1 Ward Members have a central role in helping to represent the views of local people and other stakeholders at both pre-application and planning application stage. Ward Councillors bring strong community leadership, extensive local knowledge and an up to date understanding of current issues. Planning officers have to act impartially at all times, but will provide support and advice to ward councillors on planning matters in order for them to play this community leadership role.
- 9.2 Ward Members will be notified that a planning application has been submitted relating to an address within their Ward. Although the majority of planning applications are determined by Planning Officers under the Scheme of Delegation, Members will be given the opportunity to request that an application is referred to the Planning Committee, but they must give clear planning reasons for the request.
- 9.3 If requesting that a planning application be referred to Committee, Members must notify the Development Control Manager either by using the standard pro forma or by e-mail to planning@boston.gov.uk, by telephone or in person giving clear planning reasons for the request. There is an expectation that where a Member makes such a request, they should attend to address the meeting. Officers will confirm the receipt of the request and indicate the likely target committee date.
- 9.4 Members may be approached by residents, objectors and the applicant about an application in their ward. You must pass on any correspondence or representations received to the Development Control Manager or the Monitoring Officer. At the Planning Committee Members may pass on verbally another person's/organisation's views but must make it clear to the Committee that the comments are a third party opinion and not commit themselves to a view on the application.

10. No Political Decisions on Planning Applications

- 10.1 Decisions on planning applications must not be taken in political group meetings prior to a Planning Committee meeting. The view of the Ombudsman is that "use of political whips at group meetings amounts to maladministration." Such a procedure can also give rise to legal challenge by way of judicial review through the Courts.

- 10.2 Each Councillor should independently consider the application without any undue influence.

11. Pre-application Discussions

- 11.1 Discussions between a potential applicant and the council (officers or Members), prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant.
- 11.2 In order to avoid such perceptions, pre-application discussions will take place within the following guidelines. (Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken).
- 11.3 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- 11.4 Advice should be consistent and based upon the development plan and other material considerations. There should be no significant difference of interpretation of planning policies amongst planning officers. In addition, all officers taking part in such discussions shall make clear what the decision-making route may be and that they are not the decision-maker.
- 11.5 Ideally a written note should be made of important meetings if possible. At least one officer should attend any such meeting involving a Member and a follow-up letter is advisable at least when documentary material has been left with the council. A note should also be taken of telephone discussions if possible. (The decision as to whether to register everyday contacts between councillors and interested parties will depend on circumstances).
- 11.6 In the case of advice given by planning officers it should always be made clear that any views which they express are subject to review at a more senior level and the final recommendation lies with the Development Control Manager or the officer properly exercising a delegation.
- 11.7 Wherever possible meetings should be held at the Council's offices during normal office hours. Meetings on site may sometimes be helpful, but regard should be had to the guidance on lobbying and hospitality.

12. Officer Reports to Committee

- 12.1 All decisions that are to be made by the Planning Committee will be based upon written reports by Officers supplemented, where necessary, by a brief oral presentation which may include a site plan, an aerial photograph of the site, photographs of the site, key application plans and drawings and other relevant material that the Officer considers will assist the Planning Committee in

consideration of the proposal. Planning reports by officers will be accurate and include a clear exposition of the development plan, site or related history, the substance of any objections and the views of those consulted.

- 12.2 In most cases, reports will have a written recommendation to either refuse the planning permission, with reasons, or to approve planning permission with conditions. Oral reporting will be limited to updating or clarification and to answer questions and will be carefully minuted when it does occur. Recent changes to the appeals process mean that the documents which the council can use to defend its decision on certain development types are confined to the officer report and the Committee minute only. It is important therefore that the minute records the debate and the precise reasons for the decision.
- 12.3 Reports will contain technical appraisals which clearly justify a recommendation.
- 12.4 If the report's recommendation is contrary to the provisions of the development plan, the other material considerations which justify the departure from the development plan will be clearly stated.

13. Responses to Public Consultation

- 13.1 Written or e-mail representations on planning applications should normally be received by the latest of the dates given on neighbour letters/press or site notices, which ever are employed to publicise an application. This is so that there is a 'cut-off' date after which a delegated decision may be issued when the statutory time period for publicity has passed.
- 13.2 Any further written or e-mail representations to be reported to Committee must have been received within the Development Control Team before the end of the working day prior to the day of the Planning Committee meeting.
- 13.3 However, the Development Control Manager will have discretion to consider and report to Committee any submissions received after that time should they contain any material planning considerations or planning issues which have not been raised in other responses to the Officer Report on the application.

14. Planning Committee Meetings

- 14.1 The Committee meeting is the arena where members of the public will witness decisions being taken. Conduct by Councillors or Officers which may be seen by the public to be inappropriate could quickly bring into question how a decision has been taken. It is therefore important that the procedures followed are transparent, easy to understand, fair to all parties and seen to be so.

- 14.2 Before the meeting, Committee Members should read the officer's reports and shall reserve judgement on how they will vote on an application or other matter until they have heard the views of others at the meeting. If others have no views to express at the meeting it shall be resolved that each Member supports the officer's recommendation in the report and the application shall be determined in accordance with it.
- 14.3 In addressing the Committee, the non Committee Member must make it clear to all present in the room that he/she is not a Member of the Planning Committee which will determine the application. Substitute Members of the Committee may address the Committee, as a non-committee Member, if they are not acting as a substitute for that particular meeting. The Member may address the Committee once, but may not then speak further or raise questions except, that if a Planning Committee Member wishes to clarify something that the non Member has said, this may take place immediately following the non Member's address and the non Member may reply.
- 14.4 It is appreciated that some non Members may wish to take part in further subsequent discussion, seek further clarification or make additional addresses to the Committee. This is not permitted because a third party, such as an applicant or objector, could feel aggrieved if a Member not on the Committee (and thus not bound by the protocols against predetermination), and possibly had been publicly supporting or campaigning against the proposal, could cross question officers or join in debate as though they /she were a Committee member. This could be viewed as unfairly influencing Members and bringing undue influence to bear.
- 14.5 All Members present at the meeting shall be invited to, and must declare if they have expressed a particular opinion for or against an application, before the debate on that application starts, or as soon as any interest becomes known to them.
- 14.6 The order for consideration of all planning applications will be:-
- Planning Officer oral and visual presentation;
 - Any public speaker(s) who wish to speak against the proposal (total of 5 minutes to be shared if more than one registered speaker);
 - Any public speaker(s) who wishes to speak in favour of the proposal (total of 5 minutes to be shared if more than one registered speaker);
 - The applicant/agent for the application (total of 5 minutes to be shared if more than one registered speaker)
 - Any eligible Parish Councillor who wishes to speak for or against the proposal (total of 5 minutes);
 - Any eligible Ward Councillor(s) who wish to speak for or against the proposal;
 - Questions to the Planning Officer by the Committee Members;
 - Planning Committee Members debate the proposal;
 - Planning Committee Members move and debate any alternative motions to the recommendation. The Democratic Services Officer clarifies the wording of the alternative motion and the Chairman put these to the vote as appropriate;
 - Chairman of the Planning Committee puts the original recommendation to the vote, if necessary;

- Chairman of the Planning Committee puts the substantive motion to the vote which will be the formal decision of the Planning Committee on the proposal.

- 14.7 Where propositions are made which are contrary to officer recommendations, the proposer shall clearly state the reasons why they are making such a proposal before a vote is taken. Similarly, if an application is determined contrary to the officers' written recommendation, precise reasons for refusal should be explained to and agreed by the Committee or, in the case of an approval, the nature of any conditions to be imposed on any grant should be identified. The reasons for decisions contrary to officer recommendations shall be fully set out in the minutes of the meeting.
- 14.8 All Members should be present at the outset of the consideration of an item on the agenda that relates to a planning application and remain in the committee room until a decision on the application has been made. Any member who is not present for the full duration of the consideration of a planning application is advised not to vote or take part in the discussions
- 14.9 In the event that a planning application is being considered that has been deferred from an earlier meeting, planning officers should ensure that the report updates the information from the earlier meeting, as some members may not have attended the meeting when the application was first considered.

15. Public Speaking Scheme

- 15.1 Once the Planning Committee agenda and accompanying papers are made available to the public five working days prior to the Planning Committee meeting, all persons who have made representations on an item bound for Committee will be notified of the date of the meeting and arrangements for public speaking. Anyone who wishes to speak must notify the Democratic Services Officer.
- 15.2 Completed request to speak forms must be received by the Democratic Services Officer by no later than 12 noon on the working day before the day of the meeting.
- 15.3 Registered speakers will be invited to make their representations to the Planning Committee in the following order:-
- Objector(s)
 - Supporter(s)
 - Applicant/Agent
 - Parish Councillor
 - Ward Member
- 15.4 Objector(s) wishing to speak will be allocated five minutes to make their representation. If more than one person requests to speak as an objector the allocated time may be shared between those speakers or used solely by the first person who registers to speak.
- 15.5 Should more than one person request to speak as an objector, the contact details of the first registered person will be provided to subsequent speakers, who will be responsible for contacting the first registered speaker. The subsequent speaker

can request that the speaking time be shared with them or ask the registered speaker to incorporate their comments within their address to the Committee. If the first registered speaker declines to share the speaking time, only they will be permitted to speak.

- 15.6 Supporter(s) wishing to speak will be allocated five minutes to make their representation. If more than one person requests to speak as a supporter the allocated time may be shared between those speakers or used solely by the first person who registers to speak.
- 15.7 Should more than one person request to speak as a supporter, the contact details of the first registered person will be provided to subsequent speakers, who will be responsible for contacting the first registered speaker. The subsequent speaker can request that the speaking time be shared with them or ask the registered speaker to incorporate their comments within their address to the Committee. If the first registered speaker declines to share the speaking time, only they will be permitted to speak.
- 15.8 The applicant / agent will automatically be given the allocation of five minutes speaking time. Should the applicant and agent wish to speak it is their responsibility to divide the allocated five minutes of speaking time between them.
- 15.7 A Parish Councillor may address the Planning Committee in respect of any application within their Parish that is on the agenda. They will be allocated five minutes in which to make their representation.
- 15.8 A Ward Councillor may address the Committee without time limit, but must in advance of the meeting register with the Democratic Services Officer their intent to speak if they wish to take advantage of it.
- 15.9 Under the public speaking scheme, all comments must be restricted to the application being considered and to matters to do with planning, planning policy, or listed building and conservation area issues upon which the decision will be made.
- 15.10 Speakers should not interrupt other speakers or interrupt the Planning Committee debate.
- 15.11 Speakers are advised not to make slanderous statements or any other racial motivated, discriminatory, inflammatory, offensive or abusive remarks.
- 15.12 The Chairman has the right and duty to stop anyone speaking in such a manner and will, if necessary, suspend the meeting if there is any activity or behaviour which, in their opinion, is disrupting the proper consideration of a planning application and/or the conduct of the business of the Planning Committee.
- 15.13 Once a speaker has addressed the Committee, they must return to their seat in the public gallery. Open discussion between committee members and members of the public is not permitted. However, Members of the Committee may question the content of the speaker's representation. Should this situation arise the question will be directed through the Chairman.

- 15.14 Supporting documentation / photographic evidence may be submitted by public speakers for circulation to Members of the Planning Committee. Any such documentation must be received by the Democratic Services Officer by 12 noon two clear working days before the day of the meeting (e.g. if the meeting is held on a Tuesday the documentation must be received by 12 noon on Thursday of the previous week).
- 15.15 All supporting documents must be provided in hard copy format with sufficient copies for all Members of the Planning Committee and Officers. Additional documentation may not be circulated at the meeting of the Planning Committee.
- 15.16 In circumstances where an application would be subject to referral to the Secretary of State if the Committee was minded to Approve it, the Chairman of the Planning Committee will have discretion to amend the time allocation for each category of speaker, subject to the time allocated for objectors and supporters being of equal length.

16. The Development Plan

- 16.1 The law requires that where the development plan is relevant, decisions must be taken in accordance with the plan unless material considerations indicate otherwise (s.38(6) Planning and Compulsory Purchase Act 2004).
- 16.2 All applications must be assessed in accordance with Section 38(6) of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990 as amended by Section 143 of the Localism Act 2011.

17. Decisions Contrary to the Development Plan and/or Officer Recommendation

- 17.1 Guidance and Directions from the Secretary of State for Communities and Local Government require that certain types of application, which he has defined which may not be in accordance with the Development Plan, are statutorily advertised as such. Representations received in response to the advertisement would then be considered when the application is ultimately determined.
- 17.2 If it is then intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how, where relevant, these considerations justify overriding the development plan. The application may then have to be referred to the Secretary of State for Communities and Local Government, if the Council wish to approve it, depending upon the type and scale of the development proposed.
- 17.3 If the officers' report recommends approval of such an application, the justification for this will be included in full in that report and the recommendation would be framed in terms of the Committee being 'Minded to Approve' the application and authority be given for it to be referred to the Secretary of State, if such referral applies. These types of application which the Council wish to refuse do not need to be referred to the Minister.
- 17.4 If the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the Committee's reasons will be made and a copy placed on the application file

together with a note of the general nature of any conditions to be imposed. The officer should also be given an opportunity to explain the implications of the contrary decision. The courts have expressed the view that such reasons should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, the provision of a dwelling for an agricultural worker

- 17.5 If it is the professional opinion of the officers that the reasons given for a refusal are not capable of being satisfactorily supported by the officers in view of their genuinely held opinions, Members should accept the need to employ consultants and/or appear themselves at any appeal hearing or Inquiry in order to promote the case if subsequently challenged.
- 17.6 Whilst the Council makes extensive use of standard wordings for conditions, in those cases where Councillors may wish to add or amend conditions, an officer will be asked to draft any such conditions at the conclusion of debate, if it is reasonable to do so, before the Committee is asked to agree to them. In any event, the general nature of the amended condition/s or new condition/s to be imposed will be minuted and delegated authority will be given to the Development Control Manager to draft the condition/s together with the addition of any other conditions which, in the opinion of the Development Control Manager become necessary as a result of ongoing negotiations or changes to a proposal.

18. Committee Site Visits

- 18.1 Any lack of consistency in the Council's approach to agreeing and holding Committee site visits could leave the Council open to the accusation that such visits are, at best arbitrary and unfair and, at worst a covert lobbying device.
- 18.2 Formal site visits can cause delay and additional costs and should only be used in the circumstances as set out in paragraph 17.4 below. The officer's report and presentation to the Committee and the response to Member questions should contain sufficient information on the planning issues for the Committee to reach a decision based on land use planning grounds.
- 18.3 Formal site visits may be requested by the ward councillor in advance of the Planning Committee meeting at which the application is to be considered. It is acknowledged that this is a proper part of the representative role of the member, and should normally be acceded to, subject to the agreement of the Chairman of the Planning Committee and provided also that the site meeting is necessary in accordance with paragraph 17.4. A record of the reasons why a site visit is called will be made as part of the minutes of the meeting.
- 18.4 A formal site visit is only likely to be necessary if:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers.
 - the proposal is particularly contentious.
- 18.5 Individual Members should only make unaccompanied informal site visits where the site is being viewed from a public vantage point.

- 18.6 If a formal Committee site inspection is to take place, the planning officer will inform the applicant accordingly and obtain confirmation that access to the site is available. In some instances it will be possible to view the site from the highway, in which case the applicant will not be contacted.
- 18.7 The Chairman or the Vice Chairman of the Planning Committee, a Planning Officer and Democratic Services Officer shall all be present at a site before an inspection meeting commences.
- 18.8 The site inspection is part of the decision-making process and must be treated as a continuation of the Committee meeting. Although site inspections are not arranged in relation to all planning applications, where there is a site inspection, Members should not take part in the debate or vote on a planning application at a committee meeting unless they have attended the site inspection that forms part of that meeting. The formal site inspection should take place at a time to be agreed.
- 18.9 The Chairman or, in his/her absence, the Vice-Chairman should take control of the proceedings, formally open the inspection and ask the planning officer to “present” the site. Questions should be addressed to the planning officer through the Chairman and the inspection should not be allowed to become a free for all where questions are addressed to any other party.
- 18.10 Any necessity to seek clarification on matters such as a site boundary should be raised with the planning officer who will seek clarification from the site owner/applicant/objector if necessary. Whether the site owner is applicant, or not, neither he nor any objector should be invited to speak and should not be allowed to address Committee Members as this opportunity will be available at the Planning Committee meeting
- 18.11 A Democratic Services Officer or other appropriate officer will be present at all site inspections to advise on procedure and take notes. When all questions have been responded to and any new issues understood, the Chairman will formally close the site inspection.
- 18.12 A record of any relevant issues raised and questions answered will be made by the Democratic Services Officer and a copy placed on the planning file
- 18.13 Where ward members, members of the public, applicants, objectors, parish councillors etc do attend a site inspection, they should be politely, but firmly requested to refrain from speaking. If this is not practicable, the Chairman should abandon the site inspection. Any letters of notification of the site visit to, for example, the applicant, should emphasise that they will not be permitted to take part.
- 18.14 During the site inspection, Members should refrain from entering into conversation with any other person on the site or breaking away from the main group into smaller groups or discussions. They should at all times consider that they are in a formal situation until the Chairman closes the site inspection.

- 18.15 An acceptable alternative to a site inspection may be a visual recording of the site. This can be in general or in relation to a specific matter on which the Committee has sought clarification in advance.

19. Regular Review of Decisions

- 19.1 The report of the Audit Commission *Building in Quality and the 2002 update, Development Control and Planning* recommended that Councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public confidence in the planning system, and can help with reviews of planning policy.
- 19.2 Such reviews will be undertaken at least bi-annually. They will include examples from a broad range of categories such as major and minor development; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes will be prepared on each case. The Planning Committee will subsequently formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices. The review will normally be undertaken by an accompanied coach tour of the Borough.
- 19.3 The Development Control Manager will periodically report to the Planning Committee on the results of planning appeals and any issues arising there from.

20. Complaints and Record Keeping

- 20.1 The adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.
- 20.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies can in themselves cause a complaint or undermine the Council's case.
- 20.3 The guiding rule will be that every planning application file will contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it has been reached.
- 20.4 Although all delegated application decisions are reported to the Planning Committee for notification purposes and to receive questions, particular care will be taken with applications determined under delegated powers, in terms of process and decision documentation and recording. These principles will apply equally to enforcement and development plan matters. As a matter of standard practice, the delegated officer report will be made available for public inspection the Council's website.

21. Training

- 21.1 A Member may not sit at a Planning Committee meeting without first having received appropriate mandatory training which may consist of the following:-

- an overview of the key role of planning in the Borough;
- the role of Members in the planning process;
- workshops on new Council or Central Government policy and legislation;
- other planning issues that either Members' request or Officers recommend;
- annual site visit

21.2 Members will be expected to make themselves available to attend training sessions in order to keep up to date on the latest planning and development issues.

This page is intentionally left blank



Boston Borough Council

Municipal Buildings
Boston
Lincolnshire PE21 8QR
Tel: 01205 314351

Public Participation at Planning Committee Meetings

Effective from 1st November 2007 – updated December 2025

Introduction

Public speaking will be allowed on any application on the agenda to be considered by the Planning Committee. Public speaking will not be permitted on items within the agenda such as potential enforcement action, tree preservation orders and other policy or appeal notifications.

1. Who Can Speak At A Planning Meeting?

The policy allows public speaking in each of the following categories:

The Objector (*same procedure applies for Supporter(s)**)

(*A person/person(s) who have applied to speak in line with the procedure in point 5*)

The objector(s) will be allowed a maximum of three minutes to make their representation to the Committee. The objector(s) will be timed by the Democratic Services Officer and will be advised when they have thirty seconds remaining to allow them to conclude their representation.

When more than one speaker is to address the Committee within the three-minute allocation period, the Democratic Services Officer will advise the speaker when there are thirty seconds remaining and then advise their time is up at three minutes.

The role of spokesperson for objector(s) on a planning application will be granted to the first person who registers to speak with the Democratic Services Team (see point 5)

However, when more than one person registers to speak the following procedure will apply:

- A contact number supplied by the first registered speaker (a condition agreed to, on the application form, by all people registering to speak), will be passed on to any subsequent speaker, whose responsibility it is to contact the registered speaker.
- The subsequent speaker can request that either:
 - the registered speaker agrees to share the speaking time with them, or that,
 - the registered speaker incorporates the objections of the second speaker within their own.

Should the first registered speaker decline to share the speaking time, they alone will be allowed to speak.

- Where agreement is reached with more than one speaker in a particular category, it is the responsibility of the speakers to divide the allocated three minutes speaking time between the number of speakers.

Notification of the names of each speaker and the order in which they wish to address the committee, should then be forwarded to the Democratic Services Team.

The Supporter

(Other than the applicant/agent)

The same procedures apply as for the objector(s) – please see the previous paragraph*.

The Applicant / Agent

The applicant / agent will automatically be given the allocation of three minutes speaking time. Should the applicant and agent both wish to speak it is their responsibility to divide the allocated time between them and notify the Democratic Services Officer of the order in which they wish to address the meeting. The Democratic Services Officer will advise when there are 30 seconds remaining.

The Parish Councillor or Member of BTAC

Any Parish Councillor or Member of the Boston Town Area Committee (BTAC) may address the Planning Committee in respect of any application within their Parish or within any of the BTAC wards. They may speak either in favour of / or against the application and are subject to a time allocation of three minutes. The Democratic Services Officer will advise when there are 30 seconds remaining.

The Ward Member

A Ward Councillor may address the Committee. They are subject to a time limit of five minutes and must register their intent to speak with the Democratic Services Officer.

Note: The Chairman of the Planning Committee has the discretion to allow an extension to the time allocated to a public speaker.

2. How Much Time Is Allowed?

As stated above, a maximum of three minutes will be allowed in total for objectors, three minutes in total for supporters, three minutes for the applicant/agent and three minutes for the Parish Councillor or Member of BTAC. This time limit applies if only one person is speaking or if there are multiple speakers. Ward Members are subject to a time limit of five minutes.

3. Can Documentation Be Circulated To The Committee?

Yes. Documentation and/or photographic evidence may be submitted. All documentation and / or photographic evidence must be submitted in line with the registration procedure. It must be with the Democratic Services Team by 12 noon 2 clear working days prior to the Meeting. This will allow distribution of all documentation to Members of the Committee before the meeting.

Any documentation and / or photographic evidence received after 12 noon 2 clear working days prior to the Meeting will not be submitted to the committee.

Under NO circumstances will the Chairman permit any new documentation to be circulated / referenced / submitted to Members of the Committee at the meeting. Any documentation referenced by a speaker during their representation, which the committee have not had sight of, will not be admissible for consideration.

4. May I Ask A Question Of The Committee?

No questions may be tabled of the committee or officers.

No open discussion between members and the speaker(s), or requests for a speaker's considered thoughts or ideas on the application is permitted.

Furthermore, no general commenting / thoughts or opinions of the committee on the application should be tabled at this point, as they are for open debate when the Chairman seeks committees' deliberation after all the speakers have made their representation.

The Chairman will ask the speaker(s) to return to their seat in the public gallery, or in the case of the Ward member, the Chairman will ask that they leave the meeting.

The Chairman will then invite the planning officer / legal representative to offer any comment on the representation received should they need to do so.

Finally, the Chairman will then invite the committee to open deliberations on the application for consideration and to make their final determination based on the report and the evidence received.

5. How Do I Register To Speak?

The application is issued from the Planning Department and must be received by the Democratic Service Team, NO LATER than 12 noon on the day before the meeting.

All requests to speak must include a contact number for the person registering.

This is to allow the Democratic Service Officer to contact them and also, in the instance of the first registration received by the Democratic Service Officer, to enable any further person registering in that same category to contact that first registered person, with a view to sharing the speaking time.

However, please note that any speaker wishing to produce substantiating evidence, *MUST* ensure that all documentation / photographs are received by the Democratic Service Team, no later than 12 noon 2 clear working days prior to the meeting. This will enable Committee Members to be presented with the documentation ahead of the meeting and allow them sufficient time to consider the evidence prior to the meeting.

6. What Is The Procedure At The Committee Meeting?

The procedure will be the same for all applications: -

- The Chairman will invite the reporting officer to present the planning application.
- A verbal and visual presentation will be provided.

- The Chairman will then call upon those registered to speak to make their representations in the following order:

Objector(s)
Supporters(s)
Applicant/Agent
Parish Councillor / BTAC representative
Ward Member

- The Planning Officer will comment on any factual matters raised by the speakers.
- The Committee will debate the application and make their decision to agree or refuse the application and, in some cases, may defer the application for further information or for an official site visit to view the application site.

7. What Are Speakers Allowed To Do?

All comments must be restricted to the applications being considered and to Planning Policy, Listed Building and Conservation Area issues, upon which the decision will be made.

It should be remembered that the meetings are held in public session and therefore, no comments of a personal, slanderous, defamatory, or otherwise offensive or abusive nature should be made. Planning committee meetings are live streamed.

The Chairman has the right and the duty, to stop anyone speaking if such comments are raised and the speaker may then forfeit their opportunity to continue to speak. At that point the Chairman may officially direct the committee to ignore the representation received in its final determination.

Contact Details:

For further information in respect of any of the procedures within this policy please contact the Democratic Services Team via demservices@boston.gov.uk.

All applications to speak should be marked for the attention of the Democratic Services Team.

All applications to speak must provide a contact telephone number, provide clarity of the speakers name and be signed and dated.

To email any documentation and / or photographic evidence for the Planning Committee please use the following email address: demservices@boston.gov.uk

-----◆-----



BOSTON BOROUGH COUNCIL WHISTLEBLOWING POLICY

Who and what does this policy cover?

This policy applies to all employees of Boston Borough Council, regardless of whether you have a temporary, permanent or fixed term contract. It also applies to secondees, external consultants, contractors and agency employees whilst they are at the Council. You are not required to have worked at the Council for a minimum amount of time before you can use this policy.

This policy is primarily for concerns where the interests of others or the Council itself are at risk.

Our Objectives:

This confidential reporting policy is intended to cover major concerns which fall outside the scope of other policies or procedures. Thus any serious concerns you have about the conduct of officers or members of the Council or service provision or others acting on behalf of the Council can be reported under this policy.

It can be difficult to know what to do. You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. These procedures are intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or "blowing the whistle" outside. Premature or unnecessary publicity may damage the Council's reputation, impede proper investigations or hurt individuals unnecessarily.

Throughout this policy the term 'whistleblower' denotes the person raising the concern or making the complaint.

Principles

This policy incorporates the following principles:

- **Fairness** Any action taken will be reasonable and necessary. Members of staff involved are entitled to be heard with courtesy and respect
- **Confidentiality** Information relating to Whistleblowing matters will only be shared with individuals who have a need to know
- **Representation** If issues arise within these procedures and a formal approach is required to deal with them, employees will be entitled to be accompanied by a trade union representative or by a work colleague

CONTENTS

1. How do I know if this is the right policy to use?
2. How do I raise a concern?
3. Can I make an anonymous disclosure?
4. How can I raise a concern and be protected by this policy?
5. What happens when I raise a concern?
6. What if other employees have the same concern?
7. What takes place during an investigation?
8. What is the role of the investigating officer?
9. What happens after the investigation?
10. How long will it take to resolve?
11. How will I know when my concern has been resolved?
12. What if I am not satisfied with the outcome?
13. How will the Council support me?
14. What about my confidentiality?
15. What if my concern is about fraud or corruption – doesn't the Council have a Fraud Department?
16. How do I know what is covered by the terms "fraud", "corruption" or "theft"?
17. What happens if I may be implicated?
18. What effect will it have if I raise a concern and am involved in another process such as disciplinary, capability?
19. What if an investigation finds that my concern was unfounded?
20. When might disciplinary action be taken against a Whistleblower?
21. What if there's a breach of confidentiality during the process?
22. What role does the Union have in whistle blowing?
23. How long are records relating to whistleblowing kept?
24. What about the confidentiality clause in my contract?
25. Will it be a disciplinary offence to victimise a whistleblower?
26. When can I make a disclosure outside the Council?
27. Where can I get further information or independent advice?
28. What are the do's and don'ts of whistle blowing?

1. How do I know if this is the right policy to use?

There are existing policies designed to resolve many of the concerns which an employee may have. The procedures to be followed in raising and dealing with issues under the relevant policy are set out in the relevant entry in the Employee Handbook. For example there are policies on:

Grievances; equal opportunities; disciplinary matters; Health and Safety; capability:

This procedure is intended to supplement rather than replace existing Council policies whereby employees of the Council may already raise complaints on matters of genuine concern with the Council.

The Whistleblowing Policy is intended to cover major concerns that fall outside, or in a particular instance do not appear to have been properly addressed within the scope of other procedures. These may include:

- Conduct which is an offence or a breach of the law
- Issues which are against the Councils standing orders, financial regulations, contracts code or other policies
- Disclosures related to miscarriages of justice
- Health & Safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and /or corruption
- Other unethical conduct
- Deliberate concealment of any of the above.

This is not an appeal mechanism for other procedures, unless - exceptionally - you think the process of another procedure you have been through was compromised.

If something is troubling you which you think the Council should know about or look into, please use this policy. If, however, you are aggrieved about your personal position please use the grievance procedure.

Appendix 1 shows some examples of situations in which employees might blow the whistle and the procedure to use.

2. How do I raise a concern?

You might find it useful to make a note of the details using the template in Appendix 2. When you are raising a concern please make it clear that you are raising your concern as part of the Council's Whistleblowing Policy. It is important to note that in response to concerns raised with any of those listed below; they will initially act independently of each other when making investigations.

Depending on the circumstances there are a number of ways in which you can raise your concern. We encourage you to do this in writing where possible, setting out the background and history of your concerns (giving names, dates and places where possible) and indicating the reasons for your concerns. You should have sufficient information or evidence to enable the Council to consider whether there is a need for a formal investigation.

Option 1: Line Manager

Tell your immediate manager. This can be done either face-to-face or in writing. The matter will then be referred, when appropriate, to the relevant Head of Service.

Option 2: Head of Service

If your concern involves your immediate Line Manager or Supervisor, or if for any reason you would prefer not to tell them, you may raise the matter directly with your Head of Service.

Option 3: Director

If the concern involves your line manager or Head of Service or for any reason you would prefer not to tell them, you may raise the matter directly with your Director. If the concern involves your Director you may speak to another Director.

Option 4: People Services

If for any reason you would prefer not to follow stages 1-4 listed above, you may raise the matter directly with People Services.

Option 5: Speak in Confidence

You can use our online communications tool Speak in Confidence which will enable you to raise issues or concerns with senior managers whilst remaining anonymous

<https://secure.speakinconfidence.com/company/en/boston>

Option 6: Other Relevant Bodies

If your disclosure comes under the responsibility of another public body prescribed for the purpose under the Public Interest Disclosures Act (PIDA), you can contact the relevant body. A list of prescribed regulators can be found on

<http://www.pcaw.co.uk/law/lawregulatorses.htm>

Option 7

If the matter is of an extremely sensitive or serious nature or management is believed to be involved it can be raised with one of the following:

- Monitoring Officer or Deputy Monitoring Officer
- Section 151 Officer/Deputy Section 151 Officer

- Internal Audit (ext. 486)
- Externally appointed auditors

Safeguarding/Child protection

If your concerns relate to child or adult safeguarding then you can also contact Lincolnshire County Council or go straight to the Police. Please refer to the Council's Safeguarding policy for further information.

3. Can I make an anonymous disclosure?

The Council encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Council. You should be aware that if you do make an anonymous disclosure the Council will be unable to give you any feedback, although the concern may be investigated at the discretion of the Council.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

If you disclose your identity, it will be easier for us to:

- look into the matter;
- protect your position; and
- give you feedback.

We very much hope that the assurances we give in this policy will encourage you to disclose your identity to those here who need to know. However, if you wish to raise an issue anonymously, the Council will, of course, consider it.

4. How can I raise a concern and be protected by this policy?

Certain kinds of disclosures qualify for protection ("qualifying disclosures"). Qualifying disclosures are disclosures of information which the whistleblower reasonably believes tend to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health or safety of any individual
- damage to the environment or
- deliberate covering up of information tending to show any of the above five matters

It should be noted that in making a disclosure the whistleblower must have reasonable belief that the information disclosed is in the public interest. The belief need not be correct - it might be discovered subsequently that the whistleblower was in fact wrong - but they must show that they held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure. In order for the disclosure to be protected the whistleblower must follow the reporting procedures laid out in this policy.

5. What happens when I raise a concern?

Where appropriate, the matters raised may:

- Be investigated by appropriate management representatives, internal audit, or through the disciplinary process;
- Be referred to the Police;
- Be referred to the external appointed auditor;
- Form the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection, adult abuse or discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required (e.g. precautionary suspension) this will be taken before any investigation is conducted.

In line with legislative changes due to be introduced in 2016 we will report annually on the disclosures that we receive. The detail of this will be agreed once the legislation has been formally changed.

6. What if other employees have the same concern?

You can, and may find it easier to, raise the matter jointly if there is another person who has the same concern as you and who will support your allegations.

7. What takes place during an investigation?

Once your complaint has been received an Investigating Officer will be appointed. This will normally be a Head of Service or Internal Audit. They will contact you to ensure they have full details of your complaint and clarify any details. This will be a fact finding meeting and if we need you to attend these meetings you can be accompanied by:

- a fellow employee of your choice who may be a friend or colleague;
- a local representative or full-time official of a trade union.

You will be able to confer with your companion during the course of the meeting and they may address the meeting but may not answer questions on your behalf. This meeting can be held off site if you prefer.

Those under investigation may also be accompanied by a fellow employee of their choice who may be a friend or colleague, or a trade union representative. We will not ask you to attend a meeting where those under investigation are also present.

8. What is the role of the Investigating Officer?

- acknowledge the whistleblower's disclosure;
- indicate to the whistleblower how (s)he proposes to investigate the disclosure, where appropriate, and the likely timescales;
- keep the whistleblower regularly informed of progress;
- take concerns seriously, considering them fully and fairly;
- resolve issues as promptly as possible;
- liaise with the relevant managers/ People Services Manager / Monitoring Officer as relevant in matters that have been raised with them directly; and
- communicate the findings of any investigation to the whistleblower (where possible), the individual(s) under investigation and, if appropriate, other external authorities.

9. What happens after the investigation?

The Investigating Officer will ensure that the findings of the investigation (subject to any legal constraints) are communicated to:

- You, as the person raising the wrongdoing concern;
- The individual(s) under investigation; and, if appropriate,
- Members of Council management or other external authorities who may need to consider whether action should be taken on the basis of the findings.

Please note, however that we may not be able to tell you the precise action that we take where this would infringe a duty of confidence owed by us to someone else and data protection requirements.

10. How long will it take to resolve?

Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer will ensure that their investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

11. How will I know when my concern has been resolved?

The investigating officer, should within 7 calendar days, send a written acknowledgement of the concern to you and thereafter report back to you in writing the outcome of the investigation and on the action that is proposed. This will be done within 7 calendar days of the investigation being concluded. If the investigation is a prolonged one, the investigating officer should keep you informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded. All responses to you should be in writing and sent to your home address.

12. What if I am not satisfied with the outcome?

While the Council cannot guarantee to respond to your disclosure in the way in which you might wish, we will handle the matter fairly and properly. By using this procedure you will help us to achieve this. If you are dissatisfied after using this procedure and getting a final written response you can raise the matter with the other levels and bodies set out in this policy.

13. How will the Council support me?

The Council will take steps to minimise any difficulties what may be experienced as a result of raising a concern. For instance if you may be required to give evidence in a criminal or disciplinary procedure, the Council will arrange for advice about the procedure and any support and/or counselling required.

14. What about my confidentiality?

In raising a concern about wrongdoing, you may be assured that only those Council staff investigating it will know your identity. We will not reveal your identity outside this group except:

- where we are under a legal obligation to do so
- where that information is already in the public domain
- on a strictly confidential basis to a professionally qualified lawyer or accountant for the purposes of obtaining advice; or
- to the police or as otherwise required under anti-money-laundering requirements
- when making a complaint that involves an Elected Member which may be considered under the Member Code of Conduct

If there are any other circumstances in which we are required to reveal your identity outside those identified above, we will discuss this with you first. Under no circumstances will you find that your identity has been revealed outside this list without your knowledge.

15. What if my concern is about fraud or corruption – doesn't the Council have a Fraud Department?

Anyone who has a genuine concern about potential fraud, corruption, or weak financial systems within the Council is encouraged to bring it to the council's attention (in confidence) through any of the following channels:

- The Section 151 Officer or their deputy: Tel; 01205 314250
- The Monitoring Officer: Tel: 01205 314292
- The Council's internal auditors Tel: 01205 314486
- The Audit Commission Tel: 0303 4448346

Remember, the Council also has in place an Anti Fraud & Corruption policy which this policy is designed to compliment. The responsibility for the investigation of fraud and corruption perpetrated against the Council generally rests with the Fraud Officers for all benefit related cases and with the internal audit section for all non-benefit related matters. In some cases, police or external agencies may also be involved.

16. How do I know what is covered by the terms "fraud", "corruption" or "theft"?

The Audit Commission Fraud Manual defines Fraud as:

"The intentional distortion of financial statements or other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets or otherwise for gain"

Fraud occurring within an organisation is known as Corporate Fraud. This involves deliberate dishonesty to deceive the public, lending companies or others, usually resulting in financial gain to the criminals, organisation or individuals working within. The Anti-fraud & Corruption Policy sets out further detail about Corporate Fraud. If you suspect anyone of Corporate Fraud you should use the provisions within this policy to raise your concerns.

Most actual and attempted fraud against local authorities is committed by people who do not work for the Council, usually by claiming grants and benefits to which they are not entitled. For their purposes fraud does not include petty theft or misappropriation without the distortion of financial statements or other records. The following, more general definition of fraud is also appropriate, as this policy is designed to promote propriety in public office *"deliberate deception, trickery or cheating with the intention to gain advantage"*.

The Audit Commission Fraud Manual defines Corruption as:

"the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person".

Theft is defined as:

"intentional and dishonest borrowing, misappropriation or misuse of Council assets or

facilities, including actions that may fall short of offences under criminal law”

17. What happens if I may be implicated?

If you blow the whistle and actively co-operate with an investigation in which you may be implicated in any wrongdoing, you are likely to receive a lighter sanction than might otherwise have been the case (unless the misconduct is so serious that no amount of co-operation or other mitigating conduct can justify a decision not to bring any action). In making any disclosure you must tell the Council as soon as possible if you have any involvement or direct personal interest in the matter.

18. What effect will it have if I raise a concern and am involved in another process such as disciplinary, capability, redundancy or grievance?

These matters will, rightly, not have any bearing on the investigation of your complaint, but may be taken into consideration if you are found to have not acted in good faith.

19. What if an investigation finds that my concern was unfounded?

If you make an allegation where you have reasonable belief that the disclosure is in the public interest which is not confirmed by subsequent investigation, no action will be taken against you. It does not matter if you are mistaken or if there is an innocent explanation for your concerns. In making a disclosure you should exercise due care to ensure the accuracy of the information you provide.

20. When might disciplinary action be taken against a Whistleblower?

This is not something which should deter you from raising a genuine concern. However, if you made frivolous, malicious or vexatious allegations, or allegations for personal gain, and particularly if you persisted with making them, disciplinary action may be taken against you.

If you knowingly made false allegations disciplinary action may also be taken and also if you raise concerns without following the procedures within this policy.

21. What if there's a breach of confidentiality during the process?

Any parties involved will be required to observe confidentiality. If there is a breach of this confidentiality by anyone involved with resolving your concern, then you can take the appropriate action under the Grievance Procedure. Action will also be taken under the disciplinary policy where appropriate.

22. What role does the Union have in Whistleblowing?

The Council recognises that employees may wish to seek advice and to be represented by their trade union officers when using the provisions of this policy. A number of Trade Unions have issued guidance on 'whistle blowing', and the Council acknowledges and endorses the role trade union officers play in this area. If you are unsure who your representative is you can find details on the notice boards, or you can contact People Services for current details.

23. How long are records relating to Whistleblowing kept?

The records will be destroyed after seven years.

24. What about the confidentiality clause in my contract?

Breach of confidence clauses in an employment contract are not enforceable as long as a whistleblower is truly disclosing confidential information in good faith. Where the procedure allows a matter to be taken outside the Council the whistleblower should not disclose confidential information unless the information relates to the matter under investigation and not until the internal procedures have been exhausted. No confidential information shall be disclosed externally in a frivolous or vexatious manner.

25. Will it be a disciplinary offence to victimise a whistleblower?

Yes. If you blow the whistle and suffer detriment because of it, the disciplinary procedure will apply to the individual or individuals who caused the detriment. Detriment may take a number of forms, such as denial of promotion or training opportunities which may otherwise have been offered.

26. When can I make a disclosure outside the Council?

The Council stresses that you should raise concerns internally first, but the law also provides for you to make a wider disclosure (which could include to the police or an MP) **if, and only if:**

- The matter is exceptionally serious.
- You are reasonably afraid that you would be victimised.
- You believed reasonably that there would be a cover up and there is no prescribed person (Audit Commission etc).
- The matter was raised internally or with a prescribed person but was not dealt with properly.

27. Where can I get further information or independent advice?

This policy is designed to provide you with an avenue within the Council to raise concerns.

The Council hopes you will be satisfied with any action taken. If you are not, and you feel it's right to take the matter outside the Council, the following are possible contact points (this list is not exhaustive)

- The Health & Safety Executive (www.hse.gov.uk)
- HM Revenue & Customs (www.hmrc.gov.uk)
- The Police (<http://www.police.uk/>)
- Crimestoppers (www.crimestoppers-uk.org)
- The Audit Commission/Externally Appointed Auditor (www.audit-commission.gov.uk)
- Your trade union – GMB/UNISON
- Confidential Fraud Hotline provided by the Audit Lincolnshire Partnership
 - Telephone: 0800 0853716
 - Email: whistleblowing@lincolnshire.gov.uk
 - Mail address: Lincolnshire Local Authorities, PO Box 640, Lincoln, LN1 1WF

Advice can also be given by ACAS, the Advisory, Conciliation and Arbitration Service (www.acas.org.uk).

If you feel you need independent advice at any stage of the process, you may also contact the independent charity - Public Concern at Work (<http://www.pcaw.co.uk/index.htm>) on 0207 404 6609, or email helpline@pcaw.co.uk. Public Concern gives free and confidential advice on whistleblowing matters.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

28. What are the do's and don'ts of whistle blowing?

Do

- Make an immediate note of concerns.
- Note all relevant details, such as what was said, the date, time and names of the people involved.
- Let your Manager / Head of Service / People Services Advisor know about your suspicions.
- Deal with the matter quickly. Any delay may allow the problem to continue.

Don't

- Do nothing
- Be afraid of raising concerns
- Approach or accuse individuals directly
- Try to investigate the matter yourself

Appendix 1

Situations in which employees might blow the whistle

Example one

You are working in an area which regularly engages outside contractors. You have noticed how the one which has been named Boston Borough Council's preferred supplier doesn't deliver on time or to budget. Your manager, who is very friendly with one of the staff in the contracting firm, doesn't appear to share your concerns, but is quick to make excuses for them. Senior management seems to have accepted these explanations and don't seem to be concerned. You suspect your manager may be receiving inducements. What should you do?

Report the suspicion to your Head of Service, relevant Director or People Services.

Example two

You are in the gym and you notice that everyone using a piece of equipment is now complaining of back trouble. You see that one part of it is loose, but, despite reporting it to the manager of the gym, nothing had happened. What should you do?

Report the matter immediately to the Health & Safety Advisor under the Health & Safety policy. Allow a reasonable time for the problem to be resolved and ask about progress. If you have genuine concerns that nothing is being done, contact your Union representative, Service Manager or the People Services Manager.

Example three

A former colleague supervised XYZ firm as part of their work. You inherit his work and note there are no records of his visits to the firm. What should you do?

Report the incident immediately to your manager. If the concern involves your immediate manager, Head of Service or Director, or for any reason you would prefer them not to be told, raise the matter directly with another Director or People Services.

Example four

You work for the Leisure Pool and are often in reception. Over the past few weeks you notice a member of the public who doesn't seem to be paying for their entry. You put this down to your error or their genuine mistake. However, recently you notice the same person doing this on a daily basis. You are not sure what to do and you are worried because you did not report it the first time. What should you do?

Report the incident immediately to your Manager. If the concern involves your immediate manager report it to your Head of Service. If for any reason you would prefer them not to be told, raise the matter directly with a Director or People Services.

Example five

You have a concern that could impact on the Council's reputation, but do not want to raise it with your Head of Service as you believe they are compromised in some way. What should you do?

Report the incident directly to a Director or People Services.

Example six

You raised a concern under the Council's Whistleblowing Policy, but you do not feel confident that the matter was dealt with appropriately by the Council. What do you do?

Refer the matter to next most senior person. If you have already followed this process to the most senior employee of the council, you should raise the matter externally. A list of where you can get more information or advice is listed in this policy.

Appendix 2

Name: Department:

WHAT CONCERN(S) DO YOU WISH TO RAISE?
 (In your own words describe your concern(s), include date(s), time(s), persons involved, including any witnesses, location, the length of time you have been concerned. Continue on a separate sheet if necessary)

.....

WHY ARE YOU CONCERNED ABOUT THE ISSUE(S)?

.....

HAVE YOU DISCUSSED THE ISSUE(S) WITH ANYONE ELSE? YES / NO

If so, who with, when (date)

WHAT WAS THE OUTCOME OF THIS PREVIOUS DISCUSSION?

.....

Please give details of how you wish to be contacted i.e. in writing, verbally, at home, at work. Please include a current telephone number if you wish to be contacted by telephone:.....

.....

PART 5 (SECTION G)

**BOSTON
BOROUGH
COUNCIL
SURVEILLANCE
POLICY AND
PROCEDURES

2015/16.**

Review Date: September 2016.

Table of Contents

1	INTRODUCTION	4
2	POLICY STATEMENT	6
2.1	Procedure.....	6
2.2	Training and Review.....	7
2.3	Conclusion	7
3	LOCAL AUTHORITY SURVEILLANCE REGIME.....	8
3.1	Magistrates' Approval	8
3.2	Directed Surveillance and the Serious Crime Test.....	9
3.3	Communications Data	10
4	SURVEILLANCE REGULATED BY PART 2 OF RIPA	12
4.1	The Law	12
4.2	Surveillance techniques which the Council can authorise.....	12
4.3	Directed Surveillance.....	12
4.4	Intrusive Surveillance	17
4.5	Covert Human intelligence Source (CHIS).....	20
5	COMPLETING FORMS	23
5.1	The Authorising Officer	23
5.2	Time Limits.....	23
6	AUTHORISING DIRECTED SURVEILLANCE: RULES AND CRITERIA.....	24
6.1	The Authorising Officer	24
6.2	Time Limits.....	24
6.3	Authorising Officer's Consideration.....	24
7	AUTHORISING A CHIS: RULES AND CRITERIA.....	28
7.1	The Authorising Officer	28
7.2	Time Limits.....	28
7.3	Authorising Officer's Consideration.....	28
8	COMPLETING RIPA FORMS	32
8.1	What to do?	32
8.2	COMMON MISTAKES IN RIPA FORMS (Highlighted by the OSC)	34
	APPLICATION FOR AUTHORISATION OF DIRECTED SURVEILLANCE.....	36

REVIEW OF A DIRECTED SURVEILLANCE AUTHORISATION.....	48
RENEWAL OF A DIRECTED SURVEILLANCE AUTHORISATION.....	52
CANCELLATION OF A DIRECTED SURVEILLANCE AUTHORISATION.....	56
APPLICATION FOR AUTHORISATION OF THE CONDUCT OR USE OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS).....	59
REVIEW OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS) AUTHORISATION	72
APPLICATION FOR RENEWAL OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS) AUTHORISATION	76
CANCELLATION OF AN AUTHORISATION FOR THE USE OR CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE	80
GUIDE TO SEEKING MAGISTRATES' APPROVAL FOR RIPA SURVEILLANCE	83
APPLICATION FOR JUDICIAL APPROVAL FOR AUTHORISATION TO OBTAIN OR DISCLOSE COMMUNICATIONS DATA, TO USE A COVERT HUMAN INTELLIGENCE SOURCE OR TO CONDUCT DIRECTED SURVEILLANCE	87
9 NON - RIPA SURVEILLANCE	90
9.1 Crimes Not Carrying Six Months Imprisonment	90
9.2 Employee Surveillance	91
9.3 Human Rights Compliance	92
9.4 Data Protection Compliance	92
9.5 Non – RIPA Surveillance Form.....	93
10 EMPLOYEE SURVEILLANCE AND THE DATA PROTECTION ACT	95
11 NON-RIPA AUTHORISATION FORM	97
NON-RIPA AUTHORISATION CANCELLATION FORM.....	104
APPENDIX 1 – BOSTON BOROUGH COUNCIL PROPER RIPA OFFICERS	108
APPENDIX 2 – BOSTON BOROUGH COUNCIL NON-RIPA AUTHORIZING OFFICERS	109

APPENDIX 3 – RIPA KEY CHANGES	111
APPENDIX 4 – POLICY VERSION CONTROL	115

1 Introduction

The Regulation of Investigatory Powers Act 2000 (RIPA) came into force on 2nd October 2000. Part 2 provides a statutory framework for regulating the conduct of covert surveillance and the deployment of a covert human intelligence source (CHIS) by, amongst others, local authorities. These bodies are also subject to regular compliance inspections by the Office of Surveillance Commissioners (OSC).

Poor procedures and guidance documents often lead to mistakes being made by investigators and authorising officers. This inevitably and quite rightly leads to criticism by the OSC.

The purpose of this policy and its procedures to help officers:

- **Understand when surveillance is regulated by RIPA**

Section 4 contains a detailed explanation of Part 2 of RIPA. The flowcharts will assist officers when deciding whether the surveillance they intend to conduct is regulated by Part 2 i.e. whether it is Directed Surveillance, Intrusive Surveillance or a Covert Human Intelligence Source (CHIS).

- **Understand when the authorisation criteria are met**

Section 6 contains a detailed explanation of the criteria which need to be satisfied, before the Authorising Officer can authorise surveillance under Part 2 of RIPA. The flowcharts assist in understanding the decision making process which needs to be adopted.

- **Complete the RIPA forms correctly**

Poor form filling is a common criticism of local authorities by the OSC. Section 8 contains the most comprehensive guidance on this topic. It consists of each form reproduced with detailed notes to assist completion. All the forms are included from application, through to review, renewal and cancellation. All have been amended to take account of the latest changes to the legislation and codes of practice.

- **Understand and implement the latest RIPA Procedures**

This Policy and Procedure takes into account the changes to the local authority RIPA regime which came into force on 1st November 2012 by virtue of:

- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, (SI 2012/1500) - *a new test for authorising Directed Surveillance.*
- The Protection of Freedoms Act 2012 - *all local authority surveillance to be approved by a Magistrate.*

Sections 4 and 8 explain the changes in detail and the new authorisation procedures to be adopted.

- **Understand the implications of the new RIPA Codes of Practice**

On 10th December 2014 revised versions of the two codes of practice under Part 2 of RIPA came into force. This was as a result of two statutory instruments namely; the Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2014 and the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2014.

There is a full explanation of the key changes in this toolkit for officer's information. All the guidance in the forms set out in Section 7 has been revised in the light of the new codes.

- **Understand and record non-RIPA surveillance**

Sometimes covert surveillance will not be regulated by RIPA but other laws, particularly data protection, will still need to be complied with. Section 9 explains the concept of "Non RIPA Surveillance" in detail and what to do before undertaking it. Forms for authorising and cancelling such surveillance are also included.

All officers must note that surveillance law and related legislation is a very complex area, therefore it is essential that all officers who have any involvement with RIPA or non RIPA activity must always defer to the prevailing Codes of Guidance, Practice, Forms and advice that are accessible by entering RIPA into the main search function at www.gov.uk . In addition to these publicly accessible documents, the prevailing OSC Procedures and Guidance manual is held securely in ALFRESCO for reference BUT NOT FOR PUBLIC DISCLOSURE. Officers should always seek advice from the Council's Senior Responsible Officer, RIPA Coordinator or Legal Services on any matter with which they are unfamiliar or unsure.

2 Policy Statement

Boston Borough Council is committed to building a fair and safe community for all by ensuring the effectiveness of laws designed to protect individuals, businesses, the environment and public resources.

Boston Borough Council recognises that most organisations and individuals appreciate the importance of these laws and abide by them. The Council will use its best endeavours to help them meet their legal obligations without unnecessary expense and bureaucracy.

At the same time the Council has a legal responsibility to ensure that those who seek to flout the law are the subject of firm but fair enforcement action. Before taking such action, the Council may need to undertake covert surveillance of individuals and/or premises to gather evidence of illegal activity.

2.1 Procedure

All covert surveillance shall be undertaken in accordance with the procedures set out in this document and logged on the Council's **Centrally Retrievable Record** (*the Central Record*) which will be maintained in accordance with the requirements set out at Paragraphs 8.1 to 8.4 of RIPA and paragraphs 3.14 and 3.15 of RIP(S)A Covert Surveillance and Property Interference Codes of Practice and paragraphs 7.1 to 7.7 of RIPA and paragraphs 3.13 to 3.16 of RIP(S)A CHIS Codes of Practice by the Senior Responsible Officer and RIPA Coordinator.

The Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws, in particular the:

- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Protection of Freedoms Act 2012
- Data Protection Act 1998

The Council shall, in addition, have due regard to all official prevailing guidance and codes of practice, particularly those issued by the Home Office, the Office of Surveillance Commissioners (OSC), the Security Camera Commissioner and the Information Commissioner.

In particular the following guiding principles shall form the basis of the all covert surveillance activity undertaken by the Council:

- Covert surveillance shall only be undertaken where it is absolutely necessary to achieve the desired aims.
- Covert surveillance shall only be undertaken where it is proportionate to do so and in a manner that it is proportionate.
- Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance.

- All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers.
- Covert surveillance [regulated by RIPA] shall only be undertaken after obtaining judicial approval.

2.2 Training and Review

All Council officers undertaking covert surveillance shall be appropriately trained to ensure that they understand their legal and moral obligations.

Regular audits shall be carried out to ensure that officers are complying with this policy.

This policy shall be reviewed at least once a year in the light of the latest legal developments and changes to official guidance and codes of practice by the Senior Responsible Officer.

The Senior Responsible Officer shall report to the Council's Audit and Governance Committee every three months about RIPA surveillance. The Audit and Governance Committee will, with the support of the Senior Responsible Officer, review this Policy and Procedure document annually and refer it to Full Council for adoption accordingly. The SRO will have delegated authority to make minor and consequential changes to this policy and procedure document necessary as a consequence of, for example, changes in legislation, guidance or case law and to change the details and approvals of officers as may be necessary.

2.3 Conclusion

All citizens will reap the benefits of this policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.

Adherence to this policy will minimise intrusion into citizens' lives and will avoid any legal challenge to the Council's covert surveillance activities.

3 LOCAL AUTHORITY SURVEILLANCE REGIME

1st November 2012 saw three important changes to the local authority surveillance regime come into force. These were recommended by the Home Office Review into counter-terrorism and security powers (published on 26th January 2011).

3.1 Magistrates' Approval

The Protection of Freedoms Act 2012 was passed on 1st May 2012. Chapter 2 of Part 2 of the 2012 Act (sections 37 and 38) amends RIPA so as to require local authorities to obtain the approval of a Magistrate for the use of any one of the three covert investigatory techniques available to them under RIPA namely Directed Surveillance, the deployment of a Covert Human Intelligence Source (CHIS) and accessing communications data. An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. The new provisions allow the Magistrate, on refusing an approval of an authorisation, to quash that authorisation.

Section 38 of the 2012 Act makes provision for Magistrates' approval of local authority authorisations for the use of Directed Surveillance and the deployment of a CHIS. It does this by adding a new section 32A to Part 2 of RIPA.

Directed Surveillance is often conducted by local authorities to, amongst other things, investigate a benefit fraud or to collect evidence of anti-social behaviour. Typical methods include covertly following people, covertly taking photographs of them and using hidden cameras to record their movements. A typical example of a CHIS, in a local authority context, is an informant using his relationship with his employer to regularly disclose information about benefit fraudsters working in a factory.

From 1st November 2012, the internal authorisation for such surveillance methods is not to take effect until such time (if any) as a Magistrate has made an order approving it (section 32A(2)). Approval can only be given if the Magistrate is satisfied that:

- a) There were reasonable grounds for the authorising officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so.
- b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010/521) ("the 2010 Order").
- c) The granting of the authorisation was for the prescribed purpose, as set out in the 2010 Order i.e. preventing or detecting crime (*and satisfies the Serious Crime Test for Directed Surveillance (see below)*)

- d) Any other conditions set out in any order under Part 2 of RIPA is satisfied (none at present).

In addition to the above, where the authorisation is for the deployment of a CHIS, the Magistrate must be satisfied that:

- e) The provisions of section 29(5) have been complied with. This requires the local authority to ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records (as per the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725)).
- f) Where the CHIS is under 16 or 18 years of age, the requirements of the Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) have been satisfied. This sets out rules about parental consent, meetings, risk assessments and the duration of the authorisation. Authorisation of such persons to act as a CHIS must come from the Chief Executive.
- g) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the local authority and the Magistrate has considered the results of the review.

The provisions make it clear that the authorising officer is not required to apply in person and there is no need to give notice to either the subject of the authorisation or their legal representatives (Section 32B(2)). This reflects the covert nature of the exercise of the investigatory powers under RIPA. Section 9 of this toolkit explains the procedure and form for seeking Magistrates' approval.

3.2 Directed Surveillance and the Serious Crime Test

The Home Office Review also recommended that where local authorities wish to use RIPA to authorise Directed Surveillance, this should be confined to cases where the offence under investigation is a serious offence. This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#) which was made in June 2012.

The 2012 Order amended the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) ("the 2010 Order"), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3) of RIPA, upon which authorisations can be granted. Previously the one ground upon which local authorities could authorise Directed Surveillance was; where it is necessary "for the purpose of preventing or detecting crime or preventing disorder." (Section 28(3)(b)).

From 1st November 2012, local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010

Order. Those conditions are that the criminal offence which is sought to be prevented or detected:

- a) is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or
- b) would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Please note that the “Serious Crime Test” only applies to Directed Surveillance not CHIS.

The Serious Crime Test does mean that Directed Surveillance cannot be undertaken to investigate “minor offences.” Surveillance can still be undertaken outside the scope of RIPA. See section 9 of this toolkit which explains the concept of “Non-RIPA Surveillance” and the forms and processes which should be used to ensure that it is lawful.

3.3 Communications Data

Chapter 2 of Part 1 of RIPA allows local authorities, as well as others, to access communications data about an individual from any Communications Service Provider (CSP) (e.g. a telephone or mobile phone service provider).

A new section 23A was added to Chapter 2 of RIPA (by section 37 of the 2012 Act). Once again, an authorisation or notice to obtain communications data from a CSP shall not take effect until a Magistrate has made an order approving it. The Magistrate must be satisfied that:

- a) There were reasonable grounds for the Designated Person (the person authorising the obtaining of the data) within the local authority to believe that obtaining communications data was necessary and proportionate and that there remain reasonable grounds for believing so.
- b) The Designated Person was of the correct seniority within the local authority in accordance the Regulation of Investigatory Powers (Communications Data) Order 2010 (SI 2010/480) i.e. Director, Head of Service, Service Manager or equivalent.
- c) The granting or renewal of the application was only for the prescribed type of communications data to be acquired for the prescribed purpose as set out in the above Order (i.e. subscriber and service use data (e.g. mobile phone subscriber information and itemized call records) to be acquired only for the purpose of preventing or detecting crime or preventing disorder)
- d) Any other conditions set out in an order made by the Secretary of State under Chapter 2 of Part 1 of RIPA are satisfied (none at present).

In July 2014, the Government decided in line with the recommendation from the Interception of Communications Commissioner, to make provision to ensure that

all local authorities who wish to continue to be able to access communications data only do so via the [National Anti-Fraud Network's](#) (NAFN) SPoC services. On 1st December 2014 the Home Office revoked the pin numbers of SPoCs within individual local authorities.

Two codes of practice under [Part 2 of the Regulation of Investigatory Powers Act 2000](#) (RIPA) came into force in December 2014 and is when the OSC also published their updated Procedures and Guidance document. **The OSC Procedures and Guidance document is NOT FOR PUBLIC DOMAIN and must not be shared outside of the Council by ANY officer. The document is available to Council staff via ALFRESCO. As with the Codes, It should be used as a the key reference document by applicants, authorising officers, the RIPA Coordinator and the Senior responsible Officer. None of these documents however provide legal opinion which may need to be sought; where any officer believes a legal opinion is necessary they should consult the Monitoring Officer in the first instance or Legal Services Lincolnshire.**

[The revised codes](#) implement the amendments to RIPA resulting from the legislation enacted since the last codes were published namely: [the Regulation of Investigatory Powers \(Extension of Authorisation Provisions: Legal Consultations\) Order 2010](#); to [the Protection of Freedoms Act 2012](#); and [the Regulation of Investigatory Powers \(Covert Human Intelligence Sources: Relevant Sources\) Order 2013](#) and set out [important](#) changes that where necessary have been built into this policy and procedure. A summary of the key changes drawn together by Sam Lincoln (Chief Surveillance Inspector 2006 - 2013) is set out at **Appendix 2**.

4 SURVEILLANCE REGULATED BY PART 2 OF RIPA

Part 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the European Convention of Human Rights (ECHR), particularly Article 8, the right to respect for private and family life.

4.1 The Law

- The Regulation of Investigatory Powers Act 2000
- <http://www.legislation.gov.uk/ukpga/2000/23/contents>
- RIPA Explanatory Notes
- <http://www.legislation.gov.uk/ukpga/2000/23/notes/contents>
- RIPA Statutory Codes of Practice (Revised Dec 2014)
- <http://tinyurl.com/mq7kkqn>
 - Covert Surveillance and Property Interference
 - Covert Human Intelligence Sources
- Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
- SI 2010 N0.521
- <http://www.legislation.gov.uk/uksi/2010/521/contents/made>
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012
- SI 2012 No.1500
- http://www.legislation.gov.uk/uksi/2012/1500/pdfs/uksi_20121500_en.pdf

4.2 Surveillance techniques which the Council can authorise

Part 2 of RIPA allows local authorities to authorise two out of the three techniques it regulates. The first issue for any officer considering undertaking covert surveillance is; **is it something that can be authorised under RIPA? Those techniques are:**

1. Directed Surveillance
2. Intrusive Surveillance
3. Covert Human Intelligence Source (CHIS)

4.3 Directed Surveillance

Surveillance, for the purpose of the 2000 Act, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained.

Directed Surveillance is defined in S.26(2) of the Act:

“Subject to subsection (6), surveillance is directed for the purposes of this Part if it is covert but not intrusive and is undertaken –

- (a) for the purposes of a specific investigation or a specific operation;*
- (b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and*
- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.”*

Typically local authorities may use Directed Surveillance when investigating benefit fraud, trading standards offences or antisocial behaviour. This may involve covertly filming or following an individual or monitoring their activity in other ways, such as by regularly accessing electronic information about individuals posted on social media or accessible through other online sources **regardless of the notion that such information may appear to be freely available.**

Before undertaking any covert surveillance activity an investigating officer must ask (and have an affirmative answer to) six questions before the activity can be classed as Directed Surveillance:

- Is the surveillance, actually “surveillance” as defined by the Act?
- Will it be done covertly?
- Is it for a specific investigation or a specific operation?
- Is it likely to result in the obtaining of private information about a person?
- Will it be done, otherwise than an immediate response to events?

Please consult Flowchart 1 when deciding if your surveillance is Directed Surveillance under RIPA.

Key Points to Note

General observations do not constitute Directed Surveillance. The Covert Surveillance Code (para 2.24) states:

“The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people.”

Surveillance is only Directed if it is covert. S.26(9)(a) states:

“Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place;”

This requires investigating officers to consider the manner in which the surveillance is going to be undertaken. If it is done openly, without making any attempt to conceal it or a warning letter is served on the target before the surveillance is done, then it will not be covert. Accessing electronic information about individuals posted on social media or accessible through other online sources **regardless of the notion that such information may appear to be freely available** would be covert where such access constitutes more than ‘*general observation*’ and is done in a manner of which an individual is or could reasonably be unaware.

The definition of “private information” is very wide. The Covert Surveillance and Property Interference Code of Practice 2014 states:

“2.4 The 2000 Act states that private information includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.

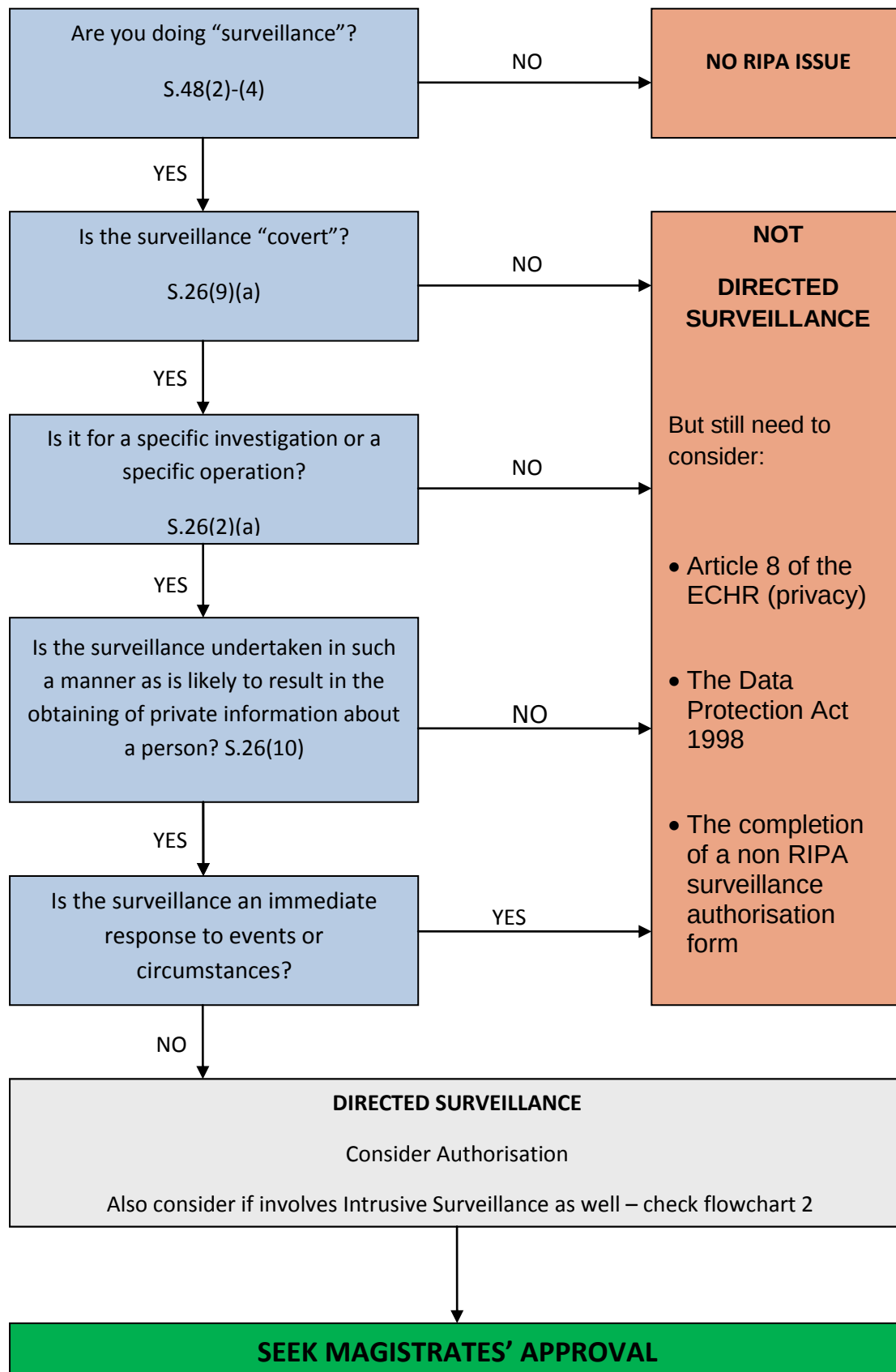
2.5 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis.”

There is a common misconception that if investigating officers are watching someone covertly in a public place or observing activities in an office or business premises then there is no private information likely to be obtained and so there is no Directed Surveillance. The above sections of the code make it extremely unlikely that a public authority will be able to successfully argue that surveillance will never result in private information being obtained. The same is true for information posted by individuals on social media and in other electronic forms; it would not therefore be reasonable for a public body such as the Council to argue that because individuals choose to share information (living their private lives in public and disclosing *private information*) in such formats that accessing it would not therefore constitute Directed Covert Surveillance so officers attention is **again** drawn to the need to consider whether RIPA or Non RIPA authorisation may be necessary?

Where covert surveillance needs to be done in an emergency and there is no time (or no Authorising Officer available) to authorise the activity, the surveillance can still be done. It will not constitute Directed Surveillance. Para 2.23 of the Covert Surveillance and Property Interference Code of Practice 2014 states:

“Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events such that it is not reasonably practicable to obtain an authorisation under the 2000 Act, would not require a directed surveillance authorisation. The 2000 Act is not intended to prevent law enforcement officers fulfilling their legislative functions. To this end section 26(2)(c) of the 2000 Act provides that surveillance is not directed surveillance when it is carried out by way of an immediate response to events or circumstances the nature of which is such that it is not reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.”

Flowchart 1 - Are you conducting Directed Surveillance?



4.4 Intrusive Surveillance

S.26(3) states:

“Subject to subsections (4) to (6), surveillance is intrusive for the purposes of this Part if, and only if, it is covert surveillance that -

(a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

(b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device. “

As the name suggests, this type of surveillance is much more intrusive and so the legislation is framed in a way as to give greater protection to the citizen when it is used. Applications to carry out Intrusive Surveillance can only be made by the senior Authorising Officer of those public authorities listed in or added to S.32(6) of the Act or by a member or official of those public authorities listed in or added to section 41(l). **Local authorities are not listed therein and so cannot authorise such Intrusive Surveillance.**

It is still important to understand the definition of Intrusive Surveillance because sometimes over zealous officers may overstep the mark and end up doing it. The following questions have to be asked:

- Is it Covert Surveillance as defined by the Act?
- Is it being carried out in relation to anything taking place on any residential premises or in any private vehicle?
- Does it involve the presence of an individual on the premises or in the vehicle?
- Is it being carried out by means of a surveillance device on the premises or in the vehicle?

Please consult Flowchart 2 when deciding if your surveillance is Intrusive Surveillance under RIPA.

Key Points to Note

When doing covert surveillance of premises it can only be Intrusive if it is carried out in relation to anything taking place on residential premises. This is defined in S.48(1):

“residential premises” means (subject to subsection (7)(b)) so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used);”

Environmental health officers doing covert surveillance of takeaways, restaurants and shops will not be doing Intrusive Surveillance. Care must be taken though where a shop also contains living quarters and covert filming may capture images of people in those quarters. Other examples of residential premises include flats, hotel rooms,

caravans and even boats, which are used as living quarters. Care must be taken in such situations to avoid the accusation that unauthorised Intrusive Surveillance was carried out.

2. Not all surveillance of vehicles is Intrusive; the target has to be a private vehicle as defined in S.48(1):

“private vehicle” means (subject to subsection (7)(a)) any vehicle which is used primarily for the private purposes of the person who owns it or of a person otherwise having the right to use it;”

The vehicle can be owned, borrowed, rented or leased. However (by virtue of S.48 (7) (a)) surveillance is not Intrusive where the target vehicle is a taxi or a chauffer driven vehicle such as a public coach service.

3. For the surveillance to be Intrusive rather than just Directed it has got to be undertaken in such a manner as to involve the presence of an individual on the premises or inside the vehicle.

It is extremely unlikely that local authorities would allow their staff to undertake surveillance by getting inside a private vehicle covertly. This could only be conceivably done if the investigating officer hides in the boot of the target vehicle! However it may be that an officer is stationed inside residential premises to covertly observe drug dealing or anti social behaviour. Whilst normally this kind of conduct is the realm of the police, care must be taken. For example a keen investigator taking covert pictures from outside a house may decide to jump over the fence and hide in the garden to obtain clearer images.

4. Surveillance can still be Intrusive even if the investigating officer is not on or inside the premises or vehicle but is using a surveillance device such as a camera, listening device, recorder or even binoculars.

However the words of S.26 (5) should be noted:

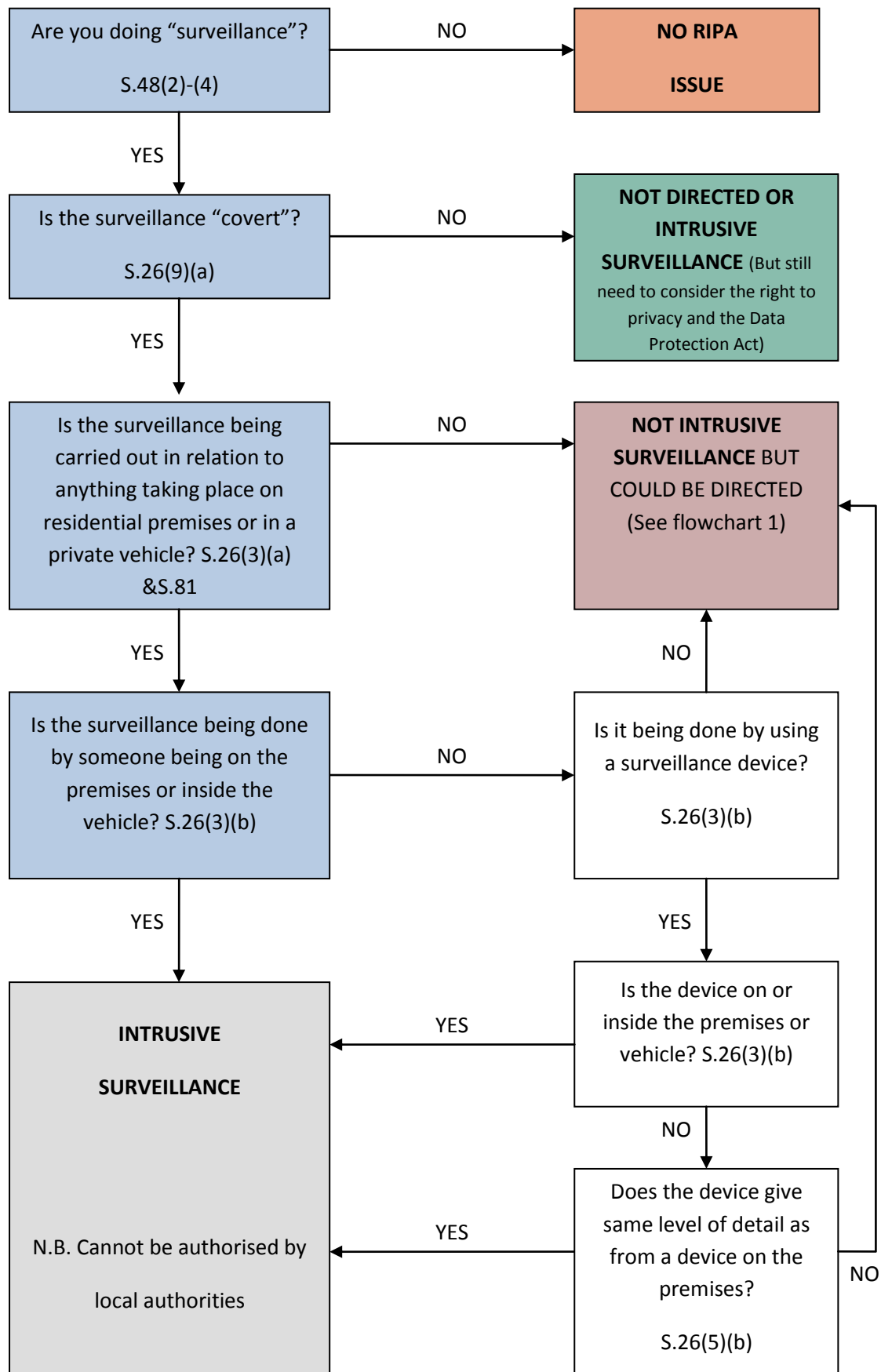
For the purposes of this Part surveillance which—

(a) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle, but

(b) is carried out without that device being present on the premises or in the vehicle,

is not intrusive unless the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

Flowchart 2 - Are you doing Intrusive Surveillance?



4.5 Covert Human intelligence Source (CHIS)

This is defined in S.26(8):

“...a person is a covert human intelligence source if -

- (a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);*
- (b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or*
- (c) he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.”*

To ascertain whether a person is a CHIS three questions must be asked:

- Is the person establishing or maintaining a personal or other relationship with a person?
- Is that relationship being used for a covert purpose?
- Is the covert purpose facilitating the doing of anything falling within paragraph (b) or (c) (above)?

Please consult Flowchart 3 when deciding if your surveillance involves a CHIS.

A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.

Key Points to Note

1. A public volunteer is not a CHIS. The CHIS code (para 2.17) states:

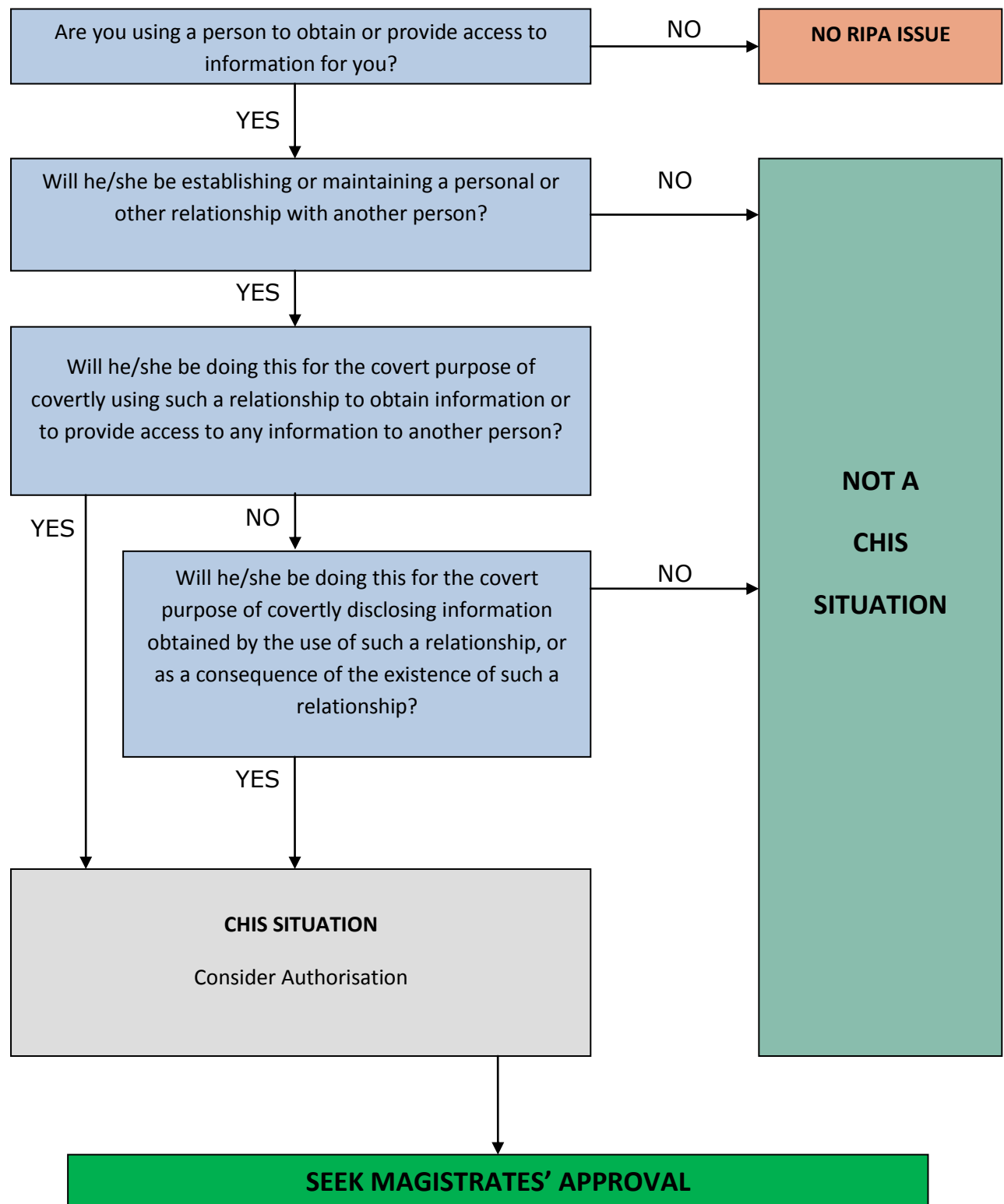
“In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Many sources merely volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by a public authority. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation under the 2000 Act is required.”

Care must be taken to ensure that someone who starts off as a public volunteer does not end up being a CHIS.

2. There must be covert use of a relationship to provide access to information or to covertly disclose information. Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS.

3. A test purchaser, may come within the CHIS definition, but may not always require authorisation. Please consult the CHIS Code (para 2.13) and the OSC Procedures and Guidance Document (December 2014) for further guidance.

Flowchart 3 - Are you deploying a CHIS?



5 COMPLETING FORMS

Once it is decided what type of surveillance is being undertaken, the appropriate form must be completed and sent to the Authorising Officer for approval. Section 8 contains each form together with notes to assist completion.

5.1 The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that **the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.**

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the **Head of Paid Service or, in his/her absence, the acting Head of Paid Service.**

Boston Borough Council's Proper Officers for RIPA are set out at Appendix 1.

5.2 Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

6 AUTHORISING DIRECTED SURVEILLANCE: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

“(1) Conduct to which this Part applies shall be lawful for all purposes if –

(a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and

(b) his conduct is in accordance with the authorisation.”

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

6.1 The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that **the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.**

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the **Head of Paid Service or, in his/her absence, the acting Head of Paid Service.**

Boston Borough Council's Proper Officers for RIPA are set out at Appendix 1.

6.2 Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

6.3 Authorising Officer's Consideration

Chapter 3, Covert Surveillance Code)
S.28(2) states:

“A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes –

(a) that the authorisation is necessary on grounds falling within subsection (3); and

(b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.”

Please consult flowchart 4 when deciding whether Directed Surveillance should be authorised.

The first question that the Authorising Officer needs to ask is; Is the surveillance necessary?

The surveillance has to be necessary on one of the grounds set out within S.28(3). Previously local authorities could authorise Directed Surveillance where it was necessary “

“for the purpose of preventing or detecting crime or of preventing disorder.”
(S.28(3)(b))

The Home Office Review, which reported in January 2011, recommended that where local authorities wish to use Directed Surveillance, this should be confined to cases where the offence under investigation is a serious offence.

This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#) which was made in June 2012 and came into force on 1st November 2012. This amends the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) (“the 2010 Order”), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3), upon which authorisations can be granted.

From 1st November 2012, local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010 Order. Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Surveillance being carried out to tackle disorder (e.g. anti social behaviour) can not be authorised as Directed Surveillance unless the disorder includes criminal offences satisfying the above criteria.

The second question is; Is the surveillance proportionate to what is sought to be achieved by carrying it out?

Proportionality means ensuring that the surveillance is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether surveillance is appropriate but also the method to be adopted, the duration and the equipment to be used.

The OSC often states in its inspection reports that officers have not properly understood this concept or have not demonstrated compliance within the authorisation form. The Covert Surveillance Code (para 3.6) requires four aspects to be addressed in the authorisation form:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

The third question is; Can we avoid or minimise collateral intrusion?

The Authorising Officer will need to carefully consider the likelihood of collateral intrusion occurring. This is the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation. If the risk is significant, measures should be taken, wherever practicable, to avoid or minimise any unnecessary intrusion.

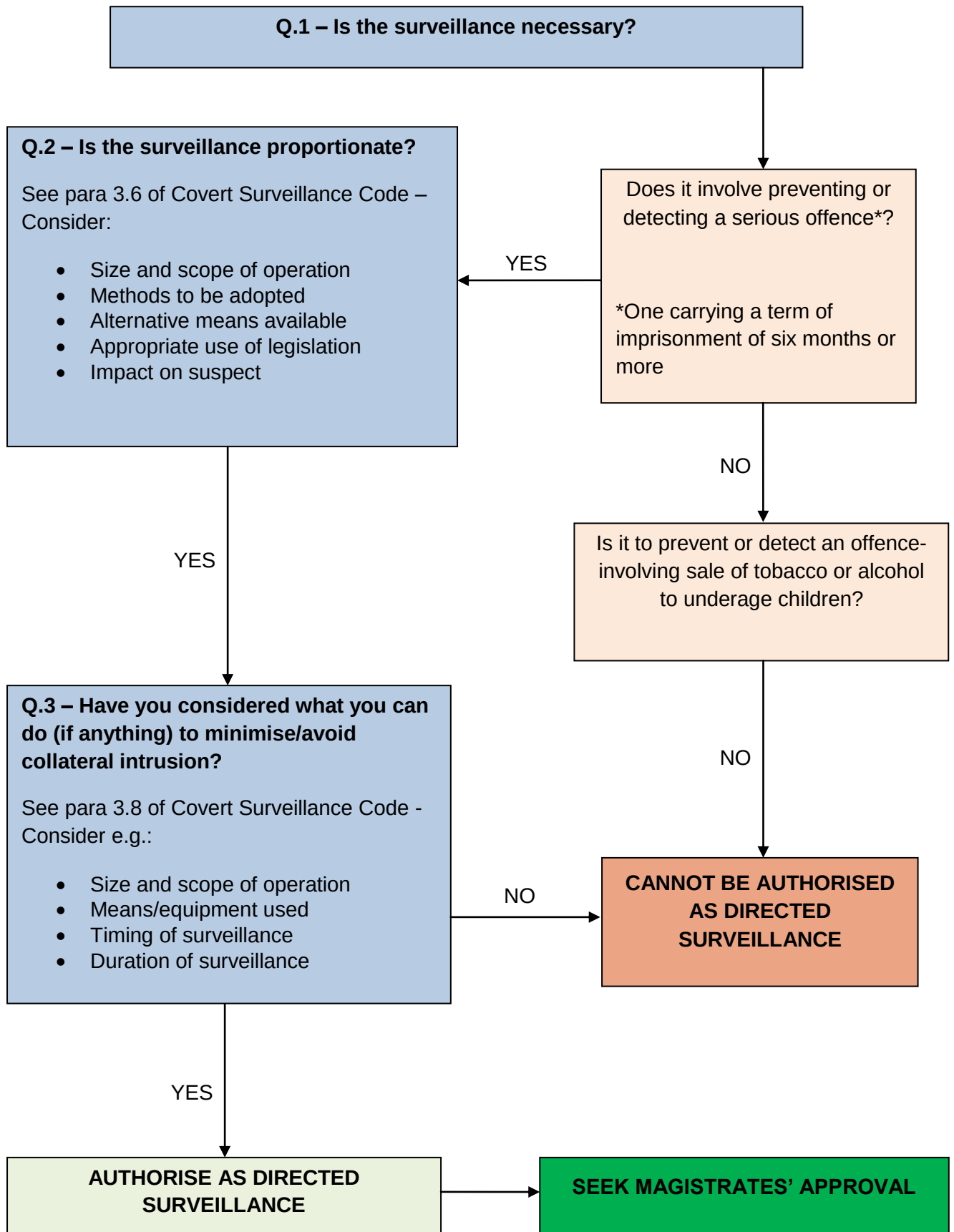
Investigating and Authorising Officers will need to ask themselves:

- What is the impact on third parties? Is it significant?
- If it is, what can be done to avoid or minimise it?
- Have we considered:
 - Changing the timing of the surveillance
 - Reducing the amount of surveillance
 - Changing the method of surveillance
 - The sensitivities of the local community
 - Surveillance operations by other public authorities

The need to obtain the best evidence to investigate the crime will be paramount.

Next Stage: Once the surveillance has been authorised the next stage is to seek Magistrates' approval. See section 8 for a detailed explanation of the procedure.

Flowchart 4 - Authorising Directed Surveillance



7 AUTHORISING A CHIS: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

*“(1) Conduct to which this Part applies shall be lawful for all purposes if -
(a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and
(b) his conduct is in accordance with the authorisation.”*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

7.1 The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the **Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.**

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the **Head of Paid Service or, in his/her absence, the acting Head of Paid Service.**

Boston Borough Council’s Proper Officers for RIPA are set out at Appendix 1.

7.2 Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

7.3 Authorising Officer’s Consideration

S.29(2) states:

*“A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes-
(a) that the authorisation is necessary on grounds falling within subsection (3);*

(b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and
(c) that arrangements exist for the source's case that satisfy the requirements of subsection (5) and such other requirements as may be imposed by order made by the Secretary of State. "

Please consult flowchart 5 when deciding whether the deployment of a CHIS should be authorised.

Three matters are important to consider before authorising the deployment of a CHIS:

1. Necessity

The deployment of a CHIS has to be necessary on one of the grounds set out within in S.29(3). Local authorities can only authorise on the one ground; where it is necessary:

"for the purpose of preventing or detecting crime or of preventing disorder."
(S.29(3)(b))

The matter being investigated must be an identifiable criminal offence or constitute disorder. Unlike Directed Surveillance, the grounds for authorising a CHIS did not change on 1 November 2012.

2. Proportionality

Proportionality means ensuring that the deployment of the CHIS is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether a CHIS is appropriate but also the method to be adopted, the duration and the equipment to be used. The CHIS Code (para 3.5) requires four aspects to be addressed in the authorisation form:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

3. Security and Welfare Arrangements

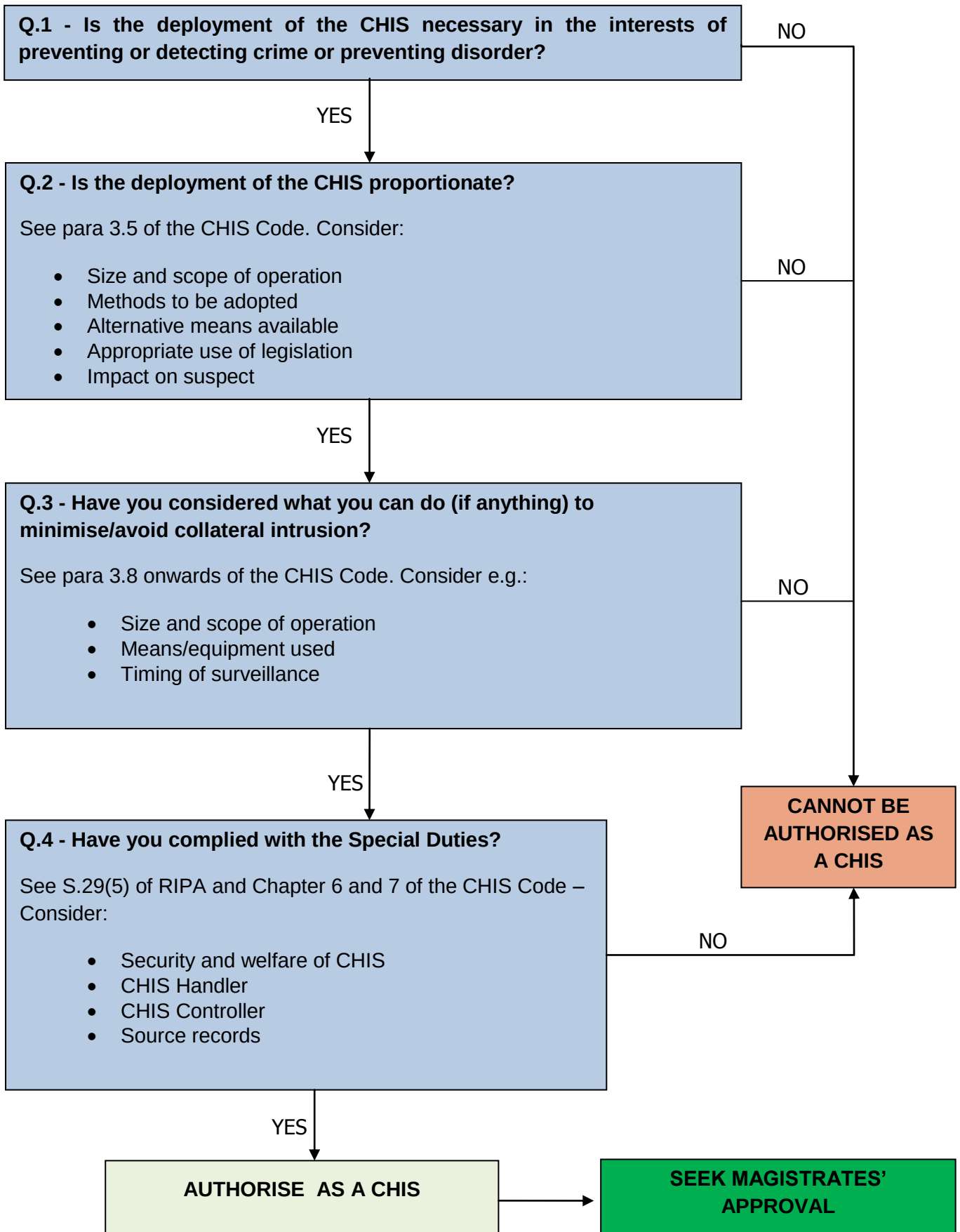
CHIS's are often placed in difficult and sometime dangerous situations e.g. an informant on a housing estate in contact with criminal gangs. Appropriate security and welfare arrangements must also be in place in relation to each CHIS. S.29(5) requires there to be:

- A person who will have day-to-day responsibility for dealing with the CHIS on behalf of that authority, and for his/her security and welfare;
- A person who will have general oversight of the use made of the CHIS. This person must be different to the one above.
- A person who will maintain a record of the use made of the CHIS. This can be any of the above or a separate person.
- Proper and secure records to be kept about the use made of the CHIS.

Risk Assessment: An authorisation for the conduct or use of a CHIS may not be granted or renewed in any case where the source is under the age of eighteen at the time of the grant or renewal, unless a risk assessment has been carried out. This must be sufficient to demonstrate that:

- the nature and magnitude of any risk of physical injury to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the nature and magnitude of any risk of psychological distress to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the person granting or renewing the authorisation has considered the risk assessment and has satisfied himself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the CHIS;
- the person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the CHIS and a relative, guardian or person who has for the time being assumed responsibility for the CHIS's welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

Flowchart 5 - Authorising a CHIS



8 COMPLETING RIPA FORMS

In the following pages each specimen Home Office RIPA form is reproduced with guidance notes in **dark blue Calibri font**. These forms were the latest versions available from www.gov.uk at the point this policy and its procedures were adopted. When making an application for any RIPA activity, officers should always download the relevant specimen RIPA form from www.gov.uk.

To ensure that the current forms are always used, officers should enter 'RIPA Forms' into the search box at the .gov.uk website and then navigate to the relevant document.

The Home Office states that public authorities may use these forms or adapt them, for example to include corporate logos or images or to combine review and renewal, or renewal and cancellation forms. However, if they adapt these forms for their own purposes - to record extra information that is not strictly necessary to ensure and demonstrate compliance with RIPA - that additional local requirement should be indicated as being distinct from the necessary recording of RIPA considerations and decisions. On no account though should the forms be pre completed with standard wording, as each application should be made with the specific circumstances of the investigation in mind.

8.1 What to do?

1. Decide what types of surveillance you are doing (refer to the guidance in section 5 of this toolkit).
2. Use this guidance to complete the appropriate forms. The following documents will also assist in this task:
 - a) The Covert Surveillance Code of Practice
 - b) The Covert Human Intelligence Sources Code of Practice
 - c) The OSC Procedures and Guidance Document (currently Dec 2014 version) (Accessible to investigating officers on ALFRESCO).
 - d) Your organisation's Surveillance Policy and Procedure Manual
3. Once completed, the forms should be sent to the Authorising Officer for approval. A list of Authorising Officers is set out at **APPENDIX 1**.
4. In addition to reading the Codes and OSC Procedures and Guidance, Authorising Officers should read section 6 of this toolkit before completing his/her sections of the form.
5. If you are seeking a new authorisation or renewing an existing one, remember that it cannot take effect until a Magistrate has approved it. The procedure for this is set out in section 8 of this toolkit.

6. A copy of each completed form should be sent to the person maintaining your organisation's Central Record of Authorisations.

8.2 COMMON MISTAKES IN RIPA FORMS (Highlighted by the OSC)

Investigating Officers' Mistakes

- Using of out of date Home Office forms
- Not quoting a unique reference number (URN) on forms
- Copying (cutting and pasting) wording from old authorisation forms
- Failing to give a detailed explanation of what the surveillance will involve
- A surfeit of surveillance tactics and equipment being requested and granted but rarely fully used when reviews and cancellations are examined
- Failing to consider and/or explain the proportionality factors
- Poor and over-formulaic consideration of potential collateral intrusion and how this will be managed
- Failing to consider likelihood of obtaining Confidential Information
- Failing to recognise or be alive to the possibility that someone may have met the CHIS criteria
- Failing to authorise a CHIS promptly as soon as they have met the criteria
- Over-generic risk assessments for a CHIS and not updated to enable the Authorising Officer to identify emergent risks
- Failing to send completed forms to the RIPA Co ordinator
Please also read paragraph 3.28 of the Covert Surveillance Code which sets out best working practices with regard to all applications for authorisations under RIPA.

Common mistakes by the Authorising Officer.

- Too many Authoring Officers within the authority
- Repetitive narrative and rubber stamping without proper consideration of all the facts set out in the authorisation form
- Not knowing the capability of the surveillance equipment which is being authorised. (For instance, there are differences between video cameras that record continuously and those activated by motion; and between thermal image and infrared capability. These differences may have an important bearing on how a surveillance operation is conducted and the breadth of the authorisation being granted. Therefore, a simple authorisation for 'cameras' is usually insufficient.)

- Failing to demonstrate that less intrusive methods have been considered and why they have been discounted in favour of the tactic selected
- Discussions that take place between the Authorising Officer and those charged with the management of the CHIS under Section 29(5) of RIPA are not always captured in an auditable manner for later recall or evidence
- At cancellation, a lack of adequate, meaningful update for the Authorising Officer to assess the activity conducted, any collateral intrusion that has occurred, the value of the surveillance and the resultant product; with, often, a similarly paltry input by Authorising Officers as to the outcome and how product must be managed
- Failing, when cancelling authorisations, to give directions for the management and storage of the product of the surveillance
- No robust management/quality assurance procedures including no regular audits

Application for Authorisation of Directed Surveillance

Sample Form with Notes to Assist Completion

This form is to be completed by an officer of the local authority seeking authorisation to carry out Directed Surveillance. Before completing it, you must satisfy yourself that you are doing Directed Surveillance as defined by RIPA. Please read chapter 2 of the Covert Surveillance Code of Practice.

Once completed, this form should be forwarded to the Authorising Officer for approval and to complete box 12 onwards. The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will last for three months.

Code of Practice/Code: This is the RIPA Covert Surveillance Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. The RIPA Co-ordinator will provide the URN.

Public Authority (including full address)			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other than the applicant)			

This section is fairly explanatory. Where a third party (e.g. private detective agency or the police) is used to carry out Directed Surveillance on behalf of the authority or to give operational support, details of that party and their involvement should be recorded on this form. See paragraph 3.15 - 3.22 of the Code.

DETAILS OF APPLICATION
Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; No.521. 1
Insert the name and position of the Authorising Officer. This is the person who will decide whether or not Directed Surveillance should be authorised and will countersign this form. He/she must hold a rank in accordance with the above Order (i.e. Director, Head of Service, Service Manager or equivalent). Care should be taken to avoid more junior officers authorising surveillance. Each department, which makes regular use of Directed Surveillance, will have officers appointed as such. If in doubt consult the RIPA Co-ordinator.
Describe the purpose of the specific operation or investigation.
Explain the crime, which is being investigated. For example; “To investigate and gather evidence of a possible benefit fraud by the target.” “To investigate instances of illegal dumping of waste at” “To investigate criminal damage which has been perpetrated against...” If possible, include the relevant legislation that may be used to prosecute offenders and/or which gives you the power/duty to investigate the matter.
Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, and recorder) that may be used.

¹ For local authorities: The exact position of the authorising officer should be given. For example, Head of Trading Standards.

Read the above carefully. Note the phrase “in detail.” Therefore a response which merely states “Video camera and recording equipment will be installed at a fixed point” will not be adequate.

Your statement here needs to include what is going to be done, who is going to do it, when they are going to do it, where they are going to do it and how they are going to do it. Other points to address here include:

How long will the surveillance last?

Specific details about dates and times i.e. is it 24/7, at specific times of the day or at random times?

Which premises are to be used and/or targeted?

Which vehicles are to be used? Are they public or private?

What type of equipment is to be used? e.g. covert cameras, audio devices

What is the capability of the equipment to be used? e.g. zoom lense, remote controlled etc.

Who else will be involved in the operation and what will be their role? e.g. private detectives, police

It may be appropriate to attach plans/maps showing where and how the surveillance will be conducted and indicating where any surveillance equipment will be installed.

Note that, if the Authorising Officer approves this surveillance, the authorisation will only cover you to do what you have stated here (subject to any amendments made by the Authorising Officer in box 12). Consequently you can only rely on section 27 (“the RIPA Shield/Defence”) in so far as you were undertaking the activities set out in this section. Therefore it pays to include lots of detail.

The identities, where known, of those to be subject of the directed surveillance.

Name:

Address:

DOB:

Other information as appropriate:

Include as much information as you have. If you do not know the identity of the target then say so. You could include a general description of the target(s) e.g. “visitors and/or residents of ASBO lane (identities unknown) who are alleged to be selling counterfeit goods at the property.”

Explain the information that it is desired to obtain as a result of the directed surveillance.

Your statement here should be more detailed than in Box 2. You should give details of the precise

information sought by doing the surveillance. For example:

“To ascertain what time the suspect enters and leaves the building.”

“To capture images of the perpetrators of criminal damage at [place/address].”

“To find out who is delivering the counterfeit goods to the suspect’s premises [place/address].”

“To corroborate the evidence of witnesses who have complained about racially aggravated anti social behaviour.”

You may include a number of separate pieces of information it is hoped to be obtained by doing the surveillance e.g. “where the alleged perpetrator is dumping the illegal waste, who he is employing him and when it is being done.”

Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (SI 2010 No.521)

In the interests of national security;

For the purpose of preventing or detecting crime

In the interests of the economic well-being of the United Kingdom;

In the interests of public safety;

for the purpose of protecting public health;

for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;

From 1st November 2012, local authorities can only authorise Directed Surveillance on the one ground: where it is necessary to prevent or detect crime. If you are not investigating a criminal offence (e.g. merely seeking to prevent disorder/anti social behaviour) then you cannot seek authorisation for this Directed Surveillance. Box 7 explains the requirements in more detail.

Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 3.3]

Para 72 The OSC Document states that the Authorising Officer must be satisfied that there is a necessity to use covert surveillance in the proposed operation. In order to be satisfied, there must be an identifiable offence to prevent or detect before an authorisation can be granted on the grounds falling within S. 28(3)(b) of RIPA.

From 1st November 2012, pursuant to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, (SI 2012/1500), local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010 Order (SI 2010 no.521). Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

To address the above, you should explain here:

The criminal offence you are investigating

How it satisfies the six month threshold test (or falls within the exceptions) explained above

How doing the Directed Surveillance will help the prevention or detection of the crime

Any other evidence you have to link the target with the offender/offence which requires corroboration through surveillance

Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.]

Describe precautions you will take to minimise collateral intrusion

When doing Directed Surveillance you may be invading the privacy of those who are not your target. RIPA requires you to think about their rights and what you can do to minimise the impact on them of your surveillance. People who may be the subject of collateral intrusion include:

customers or workers at business premises

visitors to a property

friends or relatives of the suspect

other people living on a housing estate where covert cameras have been set up to capture vandalism

The Code of Practice states:

“3.9 ...Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved. The same proportionality tests apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.

3.10. All applications should therefore include an assessment of the risk of collateral intrusion and details of any measures taken to limit this, to enable the authorising officer fully to consider the proportionality of the proposed actions.”

When completing this section, three points should be addressed:

Firstly, identify which third parties will be the subjects of collateral intrusion and what that intrusion will be i.e. what information will be captured about them?

Secondly, state why this is unavoidable. This could be because of the nature of the premises (e.g. a restaurant) or because of what the person is doing (e.g. visiting the subject/target premises). In some cases there will always be third parties around who will be captured on film or whose activities will be recorded/observed in some way.

Thirdly, set out what steps you have taken to minimise collateral intrusion, if this is possible. This may include:

using a still camera rather than a video camera

switching covert cameras on at specific times rather than leaving them to run all the time

narrowing the field of vision or the place where the cameras are cited

reducing the amount of surveillance done at busy times to capture fewer people e.g. when targeting shops or places of worship

Pixelating the faces of people who are not targets if recordings are to be viewed by a wider audience e.g. a court

If you cannot minimise collateral intrusion you still need to show that you have considered it. In some situations all you may be able to state is that you cannot do anything to minimise collateral intrusion but you will not be making any decisions based upon the information gathered about third parties unless it shows them committing a criminal offence. Furthermore, you will ensure that officers who do the surveillance or view any recordings are mindful of who the real target of the surveillance is.

Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?

[Code paragraph 3.4 to 3.7]

The Code of Practice contains detailed guidance on proportionality:

“3.4...This involves balancing the seriousness of the intrusion into the privacy of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.5 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Paragraph 3.6 requires you demonstrate that you have:

balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;

explained how and why the methods to be adopted will cause the least possible intrusion on the target and others;

considered whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;

evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

In order to comply with the above you need to address the following questions:

Can you get information/evidence using less intrusive means/ overt methods?

What other means have you tried to obtain the same information/evidence?

What have you done to try and lessen the impact on the target? Factors to address include:

Amount of information to be gathered during surveillance

The method of surveillance e.g. using still cameras rather than video to capture less information or using one camera rather than two.

Impact of the surveillance on the subject

Timing of the surveillance

At the same time, the above must be balanced with the need for the activity in operational terms. To

demonstrate this balance you should address:

What you are seeking to achieve

The seriousness and extent of the offence

The impact of the offence on the victims (and others), the wider community and the public purse

For more guidance on proportionality see the examples from page 27 of the Code and also paragraph 73 of the OSC Document.

Confidential information. [Code paragraphs 4.1 to 4.31]

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

This is defined in paragraph 4.1 of the Code as consisting of communications subject to legal privilege, communication between an MP and another person on constituency matters, confidential personal information and confidential journalistic material. So, for example, extra care should be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved. Where such material has been acquired and retained, the matter should be reported to the OSC during the next inspection and the material should be made available to them if requested.

Local authorities are unlikely to come across this kind of information during routine surveillance operations. However you have to be alive to the possibility and include wording here to show you have thought about it. For example, where you will be following someone who may attend a church, mosque or hospital.

Note that in cases where you will be acquiring confidential information as part of a Directed Surveillance operation, the authorisation has to be granted by the Chief Executive or, in his or her absence, the acting Chief Executive.

Applicant's Details.

Name (print)		Tel No:	
Grade/Rank		Date	

Signature			
Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.] I hereby authorise directed surveillance defined as follows: [Why is the surveillance necessary, Who is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?] This section is for the Authorising Officer to complete. Authorising Officers should not normally be responsible for authorising operations in which they are directly involved. See paragraph 5.7 of the Code. This section should not be pre completed by the Investigating Officer. Sufficient detail must be included here to demonstrate that the Authorising Officer has considered the application objectively. Reference can be made to the boxes completed by the Investigating Officer above but "cut and paste" should be avoided. The five "Ws" stated above must be addressed in detail. This is important so that the Investigating Officers are clear as to what they can and cannot do and the means they can adopt. The Authorising Officer should also consider what is being authorised is not in conflict with previous or other current authorisations. The Authorising Officer should not be afraid to reject the application if it lacks clarity or detail. Furthermore, the OSC Guidance recommends that if an application fails to include an element in the proposed activity which in the opinion of the Authorising Officer should have been included (for example, the return of something to the place from which it is to be taken for some specified activity), or which is subsequently requested orally by the Investigating Officer, it may be included in the authorisation; if so a note should be added explaining why. Conversely, if an Authorising Officer does not authorise all that was requested, a note should be added explaining why. Explain why you believe the directed surveillance is necessary. [Code paragraph 3.3] Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 3.4 to 3.7]			

The OSC Guidance states that the Authorising Officer should state why he/she believes that the Directed Surveillance is necessary and proportionate. A bare assertion is insufficient.

You may refer to box 7 and 9 when completing this section. Set out what matters in the respective boxes you have given particular weight to when considering necessity and proportionality. You can also add any additional factors you have considered.

To demonstrate that you have given the issues due thought, it is important not to “cut and paste” the Investigating Officer’s wording or to just state “see box 7 and 9”.

(Confidential Information Authorisation.) Supply detail demonstrating compliance with Code paragraphs 4.1 to 4.31

Box 10 (above) explains Confidential Information. This box should only to be completed if you are likely to obtain Confidential Information through Directed Surveillance. If in doubt speak to the RIPA Co ordinator.

Date of first review

Programme for subsequent reviews of this authorisation: [Code paragraph 3.23]. Only complete this box

if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate. A standard form is available to record the review.

Name (Print)

Grade / Rank

State the position of the Authorising Officer e.g. Director of Environmental Services

Signature

Date and time

According to the Code of Practice (paragraph 5.7), Authorising Officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that

this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an Authorising Officer authorises such an investigation or operation the Central Record should highlight this and the attention of the OSC should be drawn to it during the next inspection.			
Expiry date and time [e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59]		All authorisations automatically last for three months. You cannot authorise for shorter periods. Even in the case of time limited surveillance operations you must cancel the authorisation as soon as the surveillance has been completed.	
15. Urgent Authorisation [Code paragraphs 5.9]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.			
Local authorities can no longer use the Urgent (Oral) Authorisation procedure due to the need to have all authorisations approved in writing by a Magistrate. See paragraph 3.30 of the Code .			
16. If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer			
Not applicable – see box 15			
Name (Print)		Grade/ Rank	
Signature		Date and Time	
Urgent authorisation Expiry date:		Expiry time:	
Remember the 72 hour rule for urgent authorities – check Code of Practice.	e.g. authorisation granted at 5pm on June 1st expires 4.59pm on 4th June		

WHAT NEXT?

The Directed Surveillance cannot be undertaken until a Magistrate has approved the authorisation. See section 8 of this toolkit for the procedure for seeking such approval.

Once the authorisation has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Review of a Directed Surveillance authorisation

Sample Form with Notes to Assist Completion

Regular reviews of all Directed Surveillance authorisations should be undertaken to assess whether they should continue or whether the criteria, upon which the original decision to grant an authorisation was based, have changed sufficiently to require the authorisation to be revoked. Before completing this form please read the Code of Practice (paragraph 3.23 - 3.27). Unlike authorisations and renewals of Directed Surveillance, a review does not have to be approved by a Magistrate.

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or involves significant collateral intrusion, or where confidential information is likely to be obtained.

The actual review is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 8.

Code of Practice/Code: This is the RIPA Covert Surveillance Code of Practice.
Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. The RIPA Co-ordinator will provide the URN.

Public Authority (including address)			
Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Operation Name		Operation Number* *Filing Ref	
Date of authorisation or last renewal		Expiry date of authorisation or last renewal	

	Review Number	

The above is self explanatory. An additional requirement is an Operation Number. This may be specific to police procedures. Local authorities may decide to just use the Unique Reference Number.

Details of review:	
1. Review number and dates of any previous reviews.	
Review Number	Date
	If this review is part of a series of reviews then the date(s) and number(s) of the previous review(s) must be inserted.
2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.	
Summarise what has been done so far. Set out what information you have obtained so far by doing Directed Surveillance. Private Information is any information about a person's private or family life and will include details of relationships, next of kin, religious activity, visitors to the target property etc. You also need to bring to the attention of the Authorising Officer any proposed or unforeseen changes to the nature or extent of the surveillance operation that may result in the further or greater intrusion into the private life of any person. Any such changes must also be highlighted at the next renewal if the authorisation is to be renewed. Where a Directed Surveillance authorisation provides for the surveillance of unidentified individuals whose identity is later established, the terms of the authorisation should be refined here to include the identity of those individuals. See Paragraph 3.27 of the Code.	
3. Detail the reasons why it is necessary to continue with the directed surveillance.	
Set out how far you have achieved the desired objective. What more information is required? You may refer to box 7 of the original authorisation application form and state what has or has not changed. See also the guidance notes for that box for more information on necessity.	
4. Explain how the proposed activity is still proportionate to what it seeks to achieve.	

You may refer to box 9 of the original authorisation application form and state what has or has not changed. See also the notes for box 9 for more guidance on proportionality.

State any further considerations which show that Directed Surveillance is still proportionate. In the light of the surveillance done so far will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.

For an explanation of collateral intrusion see the notes in box 8 of the original authorisation application form. Consider :

Have you recorded information about third parties? If so what?

Can you do things differently to avoid the collateral intrusion?

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.

For an explanation of confidential information see the notes in box 10 of the original authorisation application form. For the reasons explained therein it is unlikely that you will say anything here other than "No confidential information has been acquired or accessed or is likely to be acquired or accessed."

7. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Review Officer's Comments, including whether or not the directed surveillance should continue.

As the reviewing officer, you should set out here why you believe that the original authorisation should continue; taking care to explain the necessity and proportionality considerations. You may refer to the original authorisation application form for assistance, as many of the original considerations may still be relevant. You should also consider:

whether any proposed changes to the surveillance are proportionate (bearing in mind any extra intended intrusion into privacy or collateral intrusion)

whether you need to amend the original authorisation yourself in the light of what you have read above e.g. reduce the timings of the surveillance or length of the operation etc.

You should make a recommendation to the Authorising Officer to cancel, renew or amend the original authorisation as appropriate.

9. Authorising Officer's Statement.

I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal] [it should be cancelled immediately].

As the Authorising Officer, if you decide that the authorisation should be cancelled you should explain your reasons. The cancellation form must now be completed. You should also immediately issue instructions to Investigating Officers to stop any further surveillance.

If you decide that the authorisation should continue, you should explain your reasons and, if need be, set a further review date (below) bearing in mind the length of the surveillance operation and its impact on the target(s) and others.

Name (Print)		Grade / Rank	
Signature		Date	

10. Date of next review

NOTE: Once an authorisation has been reviewed, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record. It must be kept for 5 years

Renewal of a Directed Surveillance Authorisation

Sample Form with Notes to Assist Completion

(Please attach a copy of the original authorisation.)

This form is to be completed by an officer of the local authority when the original authorisation period has expired but Directed Surveillance is still required. An application for renewal should not be made until shortly before the original authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. However the renewal has to be approved by a Magistrate in the same way the original authorisation was. If this is done, the authorisation will last for a further period of three months.

Before completing this form please read the Covert Surveillance Code (paragraph 5.12 – 5.16).

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Renewal Number	This should be a sequential number reflecting the number of times this particular Directed Surveillance authorisation has been renewed.		

Details of renewal:	
1. Renewal numbers and dates of any previous renewals.	
Renewal Number	Date
2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.	
Has anything changed in the way the surveillance is going to be carried out e.g. different premises targeted, different times when it will be done or equipment used etc.? Has more information come to light reflecting greater need for surveillance e.g. seriousness of the offence, new victims, new witnesses etc.?	
3. Detail the reasons why it is necessary to continue with the directed surveillance.	
Set out how far you have achieved the desired objective. What more information is required? Are you still investigating a criminal offence which meets the criteria set out in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 i.e. a crime punishable with maximum term of <u>at least 6 months imprisonment</u>, or one which involves the sale of tobacco and alcohol to underage children? You may refer to box 7 of the original authorisation application form and state what has or has not changed. See also the notes for that box for more guidance on necessity.	
4. Detail why the directed surveillance is still proportionate to what it seeks to achieve.	
You may refer to box 9 of the original authorisation application form and state what has or has not changed. See also the notes for that box for more guidance on proportionality. State any further considerations which show that Directed Surveillance is still proportionate. In the light of the surveillance done so far, will you do things differently to ensure proportionality. e.g. reduce the times of surveillance or use different equipment?	
5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance.	

This box requires you to review the information you have obtained so far by doing Directed Surveillance. It may be useful to refer to any review forms completed in relation to this surveillance.

6. Give details of the results of the regular reviews of the investigation or operation.

This box requires you to look back at the review forms completed during the duration of the original authorisation that you are seeking to renew. You may wish to attach copies of the review forms or quote their unique reference numbers.

7. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Authorising Officer's Comments. This box must be completed.

The Authorising Officer should set out here why he/she believes that the original authorisation should be renewed taking care to explain the necessity (box 3) and proportionality (box 4) considerations. Reference can be made to the original authorisation application form for assistance, as many of the original considerations may still be relevant.

9. Authorising Officer's Statement.

I, [insert name], hereby authorise the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing. This authorisation will be reviewed frequently to assess the need for the authorisation to continue.

Name (Print)		Grade / Rank	
Signature		Date	
Renewal From:	Time:	Date:	
Date of first review.			
Date of subsequent reviews of this authorisation.			

Do not forget to set review dates. Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained. During a review, consideration will have to be

given to whether the surveillance is still necessary and proportionate. A standard form is available to record the review

WHAT NEXT?

This renewal will not take effect until a Magistrate has approved it. See section 8 of this toolkit for the procedure for seeking such approval.

Once the renewal has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Cancellation of a Directed Surveillance authorisation

Sample Form with Notes to Assist Completion

This form is to be completed when cancelling an authorisation for Directed Surveillance. It is a statutory requirement that an authorisation is cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. Even where surveillance was conducted for a short time, the authorisation must be cancelled at the end of the operation. Authorisations cannot be left to just lapse. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such. Unlike authorisations and renewals of Directed Surveillance, a cancellation does not have to be approved by a Magistrate.

Before completing this form please read the Covert Surveillance Code (paragraph 5.17 & 5.17).

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

Details of cancellation:

1. Explain the reason(s) for the cancellation of the authorisation:

This section is self explanatory. Reasons could include:

“It is no longer necessary; we have obtained all the information we need.”

“It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.”

“We do not have the resources to continue.”

“This was a short time limited operation.”

“The three month time limit has expired and we have decided to use other investigation methods.”

2. Explain the value of surveillance in the operation:

State what actual surveillance was carried out under the authorisation.

Explain what was achieved through the surveillance including information acquired as well as any surveillance product e.g. photographs, recordings etc.

How is the surveillance product being stored, destroyed or otherwise handled? (see paragraphs 9.3 to 9.5 of the Code)

How does the information/surveillance product assist with your investigation/prosecution? You may wish to look back at the original authorisation application form for this surveillance, in particular box 2 and box 5.

3. Authorising officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Also include here directions to the Investigating Officers for the management and storage of the product of the surveillance e.g. photographs and other evidence. See paragraph 9.3 to 9.5 of the Code.

Name (Print)		Grade	
Signature		Date	

4. Time and Date of when the authorising officer instructed the surveillance to cease.

Date:		Time:	

It is important to formally instruct Investigating Officers to immediately cease any surveillance which is still ongoing and record that fact here and in the Central Record.

5. Authorisation cancelled	Date:		Time:	

NOTE: Once an authorisation has been cancelled, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Application for authorisation of the conduct or use of a Covert Human Intelligence Source (CHIS)

Sample Form with Notes to Assist Completion

This form is to be completed by an officer of the local authority seeking authorisation for the deployment of a CHIS. Before completing it please read chapter 2 of the CHIS Code of Practice and chapter 6 (to understand the procedures that need to be in place to manage the CHIS). Once completed, this form should be forwarded to the Authorising Officer for approval and to complete box 13 onwards. The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will last for twelve months.

Code of Practice/Code: The RIPA Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Service/Department/ Branch	
How will the source be referred to? i.e. what will be his/her pseudonym or reference number	You need to consider whether it is appropriate to use a pseudonym for the CHIS where the operation involves the CHIS being placed in a dangerous situation e.g. a CHIS who is part of a gang engaging in anti social behaviour on a housing estate. In other cases the use of the real name or reference number will suffice.		
The name, rank or position of the person within the relevant investigating authority who will have day to day responsibility for dealing with the source, including the source's security and welfare. (Often referred to as the Handler)	This is a requirement of the Act (S.29(5)(a) and the Code (paragraph 6.7). The Handler will usually be someone below the rank or position of the Authorising Officer. His/her job will include giving tasks to the CHIS e.g. to make a series of test purchases from a shop etc.		

The name, rank or position of another person within the relevant investigating authority who will have general oversight of the use made of the source. (Often referred to as the Controller)	This is the person referred to in Act (section 29(5)(b)) who will be responsible for the management and supervision of the Handler and the general oversight of the use made of the CHIS.
Who will be responsible for retaining (in secure, strictly controlled conditions, with need-to-know access) the source's true identity, a record of the use made of the source and the particulars required under RIP (Source Records) Regulations 2000 (SI 2000/2725)?	This is the person in your organisation who maintains the Source Records in accordance with the Code (chapter 7) and the stated Regulations.
Investigation/Operation	
Name (if applicable)	

DETAILS OF APPLICATION

1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; No.521 ² *Where appropriate throughout amend references to the Order relevant to your authority.*

Insert the name and position of the Authorising Officer. This is the person who will decide whether or not the deployment of a CHIS should be authorised and will countersign this form. He/she must hold a rank in accordance with the above Order (i.e. Director, Head of Service, Service Manager or equivalent). Each department, which makes regular use of a CHIS, will have officers appointed as such. Care should be taken to avoid more junior officers signing authorisations. If in doubt seek advice from the SRO, RIPA Coordinator or legal services.

Please note where the CHIS operation involves the acquisition of confidential information (see box 11) or where the CHIS is a vulnerable individual (as defined in paragraph 4.23 of the Code) or a juvenile source (as defined in paragraph 4.24 of the Code) then this authorisation can only be granted by the Chief Executive or, in his/her absence, the acting Chief Executive.

2. Describe the purpose of the specific operation or investigation.

² For local authorities: The formal position of the authorising officer should be given. For example, Head of Trading Standards.

Explain the crime or disorder, which is being investigated. For example;

- “To investigate acts of vandalism and antisocial behaviour on X Housing Estate”
- “To investigate and gather evidence of the supply of meat unfit for human consumption [brief details]”
- “To investigate the operation of an illegal fly tipping business [brief details]”
- “To investigate the sale of dangerous goods to children in X Market”

If possible, include the relevant legislation that may be used to prosecute offenders and/or which gives you the power/duty to investigate the crime or disorder.

3. Describe in detail the purpose for which the source will be tasked or used.

What are you hoping to achieve by deploying the CHIS? For example:

- “To ascertain the extent of the suspect’s alleged trade in clocked cars and who his suppliers are”
- “To collect evidence of drug dealing and noise nuisance on X Housing Estate”

Some background information about the investigation may be included to give the Authorising Officer an understanding of the context of the CHIS operation.

4. Describe in detail the proposed covert conduct of the source or how the source is to be used.

Your statement here needs to include what activities the CHIS will be tasked with to fulfil the purpose set out in box 3. Points to address here include:

- What the CHIS will do e.g. “to pretend to be a new tenant on X Housing Estate with a view to obtaining information about drug dealing from local residents by forming relationships with them.”
- Where are they going to do it?
- How long will the task last?
- When are they going to do it?
- Which premises are to be used and/or targeted?
- What type of equipment is going to be used e.g. hidden camera or microphone on the CHIS?

Note that if the Authorising Officer approves the deployment of the CHIS then the authorisation will only cover you to deploy the CHIS as stated here (subject to any amendments made by the Authorising Officer in box 13). Consequently you can rely on section 27 (“the RIPA Shield/Defence”) only in so far as the CHIS was undertaking the activities set out in this section. Therefore it pays to be detailed in this section.

If you are using more than one CHIS in an operation, state the URN of that other authorisation here.

5. Identify on which grounds the conduct or the use of the source is necessary under Section 29(3) of RIPA. *Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (e.g. SI 2010 NO.521)*

- In the interests of national security;
- For the purpose of preventing or detecting crime or of preventing disorder;
- In the interests of the economic well-being of the United Kingdom;
- In the interests of public safety;
- for the purpose of protecting public health;
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.

Local authorities can only authorise the use or conduct of a CHIS for the purpose of preventing or detecting crime or of preventing disorder. Therefore all other grounds should be deleted. If you believe that the deployment of the CHIS does not come under this heading then stop and seek advice from the SRO, RIPA coordinator or legal services.

6. Explain why this conduct or use of the source is necessary on the grounds you have identified [Code paragraph 3.2]

The Authorising Officer must be satisfied that there is a necessity to use a CHIS in the proposed operation.

You should explain here:

- What crime or disorder you are investigating.
- How the use of the CHIS lead to prevention or detection of that crime or prevention of that disorder
- Any other evidence you have to link the target with the offender/offence which requires corroboration through use of the CHIS

7. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.] Describe precautions you will take to minimise collateral intrusion and how any will be managed.

When deploying a CHIS you may be invading the privacy of those who are not your target e.g. customers at a shop, friends or relatives of the target. RIPA requires you to think about their rights and what you can do to minimise the impact of your surveillance on them.

The Code of Practice states:

“3.9 ...Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this collateral intrusion is considered proportionate to the aims of the intended intrusion. Any collateral intrusion should be kept to the minimum necessary to achieve the objective of the operation.

3.10. All applications should therefore include an assessment of the risk of any collateral intrusion and details of any measures taken to limit this, to enable the authorising officer fully to consider the proportionality of the proposed use or conduct of a CHIS.”

People who may be the subject of collateral intrusion include:

- customers or workers at business premises
- visitors to a property
- friends or relatives of the suspect or person with whom the CHIS has formed a relationship

Firstly, identify whose privacy may be invaded by the deployment of the CHIS.

Secondly, state why it is unavoidable. This could be because of the nature of the premises (e.g. restaurant) or because of what the person is doing (e.g. visiting the target); there will always be third parties present who will not know that the CHIS is there for a covert purpose or that their activities are being recorded/observed in some way.

Thirdly, set out what steps (if any) you have taken to minimise collateral intrusion and how this will be managed. This may include:

- If the CHIS is to visit public premises (e.g. a restaurant or a retail outlet) he/she will only do so at less busy times to ensure fewer customers' privacy is invaded
- If the CHIS will be using a hidden microphone he/she will only switch it on when the target is present

If you cannot minimise collateral intrusion you still need to show you have considered it. You may wish to add that you cannot do anything to minimise it but you will not be making any decisions based on the information gathered about third parties unless it shows them committing a criminal offence. You must also remind your officers of the purpose and target of the surveillance and the need to keep information about third parties confidential.

8. Are there any particular sensitivities in the local community where the source is to be used? Are similar activities being undertaken by other public authorities that could impact on the deployment of the source? (see Code 3.17 and 3.18)

This section is probably more relevant to the police, given the extent of their use of CHIS and the wide ranging nature of investigations in which they are involved. The Code of Practice states:

“...3.17. Any person granting or applying for an authorisation will also need to be aware of any particular sensitivities in the local community where the CHIS is being used and of similar activities being undertaken by other public authorities which could have an impact on the deployment of the CHIS. Consideration should also be given to any adverse impact on community confidence or safety that may result from the use or conduct of a CHIS or use of information obtained from that CHIS.

3.18. It is therefore recommended that where an authorising officer from a public authority considers that conflicts might arise they should, where possible, consult a senior officer within the police force area in which the CHIS is deployed. All public authorities, where possible, should consider consulting with other relevant public authorities to gauge community impact.”

Are there any sensitivities of the local community that you need to record e.g. using a CHIS who may attend a place of worship? Are you aware of any similar investigations by the police or other local authorities which could have an impact here? Often you will only know this if the police or other local authorities inform you.

9. Provide an assessment of the risk to the source in carrying out the proposed conduct. (see Code 6.14. to 6.16)

You could be putting the CHIS in danger because of the task that you give him/her e.g. tasking a drug user to obtain information about drug dealers. Paragraph 6.14 of the Code of Practice states:

“Any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset. Also, consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to, or in, Court.”

State here what health and safety risks are involved in deploying the CHIS and how you have addressed them e.g. personal security, panic alarm, use of fake identities, presence of other officers in the vicinity etc. Where you are deploying more than one CHIS in an operation you can still use one authorisation form but a separate risk assessment must be carried out in relation to each individual CHIS.

10. Explain why this conduct or use of the source is proportionate to what it seeks to achieve. How intrusive might it be on the subject(s) of surveillance or on others? How is this intrusion outweighed by the need for a source in operational terms, and could the evidence be obtained by any other means? [Code paragraph 3.3 to 3.5]

This requires you to justify the need for using the CHIS and balance that with the impact on the privacy of the subject and others. The Ministry of Justice Guide on Human Rights states:

“When taking decisions that may affect any of the qualified rights, a public authority must interfere with the right as little as possible only going as far as is necessary to achieve the desired aim.”

The Code of Practice explains proportionality as follows:

“3.3...This involves balancing the seriousness of the intrusion into the private or family life of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.4 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render the use or conduct of a CHIS proportionate. Similarly, an offence may be so minor that any deployment of a CHIS would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Paragraph 3.5 of the Code of Practice requires you to demonstrate that you have:

- balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explained how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- considered whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

To demonstrate proportionality, the following issues must be addressed here:

- Can you get information using less intrusive means/ overt methods?
- What other means have you tried?
- What have you done to try and lessen the impact on the target? Factors to set out:
 - Amount of information to be gathered
 - Impact on the target
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the deployment of the CHIS in operational terms. To demonstrate this balance you should set out:

- What you are seeking to achieve?
- Seriousness of the offence/disorder
- Impact of the offence/disorder on the victims
- Impact of the offence/disorder on others including the wider community and on the public purse

11. Confidential information. [Code paragraphs 4.18 to 4.22] Indicate the likelihood of acquiring any confidential information.

This is defined in Chapter 4 of the Code as consisting of communications subject to legal privilege, communication between an MP and another person on constituency matters, confidential personal information and confidential journalistic material. So, for example, extra care should be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved. Where such material has been acquired and retained, the matter should be reported to the OSC during the next inspection and the material should be made available to them if requested.

Local authorities are unlikely to come across this kind of information during routine CHIS operations. However you have to be alive to the possibility and include adequate wording here to show you have thought about it. For example, where your CHIS may attend a church, mosque or doctor's surgery.

Note that in cases where you will be acquiring confidential information as part of a CHIS operation, the authorisation has to be granted by the Chief Executive or, in his/her absence, the acting Chief Executive.

References for any other linked authorisations:

12. Applicant's Details.

Name (print)		Grade/Rank/Position	
Signature		Tel No	
Date			

13. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW – in this and the following box]. The authorisation should identify the pseudonym or reference number of the source, not the true identity.

This section is for the Authorising Officer to complete. Please note that where the CHIS operation involves the acquisition of confidential information (see box 11 above) or where the CHIS is a vulnerable individual (as defined in paragraph 4.23 of the Code) or a juvenile source (as defined in paragraph 4.24 of the Code) then this authorisation can only be granted by the Chief Executive or in his/her absence the acting Chief Executive.

This section should not be pre completed by the Investigating Officer. Sufficient detail must be included here to demonstrate that the Authorising Officer has considered the application thoroughly. Reference can be made to box 3 and 4 above but “cut and paste” should be avoided.

The five “Ws” stated above must be addressed in detail. This is important so that the Investigating Officers and the CHIS are clear as to what they can and cannot do and the means they can adopt.

You, as the Authorising Officer, should not be afraid to reject the application if it lacks clarity or detail.

14. Explain why you believe the conduct or use of the source is necessary.

[Code paragraph 3.2]

Explain why you believe the conduct or use of the source to be proportionate to what is sought to be achieved by their engagement. [Code paragraph 3.3 to 3.5]

You may refer to box 6 to 10 when completing this section. You can also add any additional factors you have considered. However, to demonstrate that you have given the issues due thought, it is important not to cut and paste that wording or to just state “see boxes 6 to 10”.

The CHIS Handler is responsible for bringing to the attention of the CHIS Controller any concerns about the personal circumstances of the CHIS, insofar as they might affect:

- the validity of the risk assessment;
- the conduct of the CHIS;
- the safety and welfare of the CHIS.

Where appropriate, concerns about such matters must be considered by the Authorising Officer, and a decision taken on whether or not to allow the authorisation to continue.

15. (Confidential Information Authorisation.) Supply details demonstrating compliance with Code paragraphs 4.1 to 4.21

This box should only to be completed if you are likely to obtain Confidential Information (see box 11) through use of the CHIS. Note that in such cases the authorisation has to be granted by the Chief Executive or, in his/her absence, the Acting Chief Executive.

16. Date of first review

17. Programme for subsequent reviews of this authorisation: [Code paragraphs 5.15 and 5.16]. Only complete this box if review dates after first review is known. If not, or inappropriate to set additional review dates, and then leave blank.

Regular reviews are stressed by the Code of Practice. Where a CHIS operation is going to last more than one month, the OSC has suggested that there should be a review once a month. Shorter or time limited operations may not require a review.

During a review, consideration will have to be given to whether the use of the CHIS is still necessary and proportionate. A standard form is available to record the review.

18. Authorising Officer's Details			
Name (Print)		Grade/Rank/Position	
Signature		Time and date granted*	
		Time and date authorisation ends	Please note that all CHIS authorisations automatically last for twelve months. You cannot authorise for shorter periods. In the case of time limited CHIS operations you must cancel the authorisation as soon as the operation has been completed.

Authorising Officers should, where possible, be independent of the investigation. The Code states (paragraph 5.8), they should not normally be responsible for authorising their own activities e.g. those in which they themselves are to act as the CHIS or as the handler of the CHIS. However it is recognised that it is not always possible, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an Authorising Officer authorises his own activity, the

Central Record should highlight this and the OSC should be about it during the next inspection.

*** Remember, an authorisation must be granted for a 12 month period, i.e. 1700 hrs 4th June 2006 to 2359 hrs 3 June 2007**

19. Urgent Authorisation [Code paragraphs 5.15]: Authorising Officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given			
Local authorities can no longer use the Urgent (oral) Authorisation procedure due to the need to have all authorisations approved in writing by a Magistrate. See paragraph 3.26 of the Code.			
20. If you are entitled to act only in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully designated Authorising Officer			
This section is only to be completed where an urgent verbal authorisation was given by an Authorising Officer only entitled to act in urgent cases. This will not be appropriate for local authorities (see above).			
21. Authorising Officer of urgent authorisation			
Name (Print)		Grade/Rank/Position	
Signature		Date and Time	
Urgent authorisation expiry date:		Expiry time:	

Remember the 72 hour rule for urgent authorisations – check Code of Practice [Code Paragraph 4.18]. e.g. authorisation granted at 1700 on 1st June 2006 expires 1659 on 4th June 2006

WHAT NEXT?

The CHIS cannot be deployed until a Magistrate has approved the authorisation. See section 8 of this toolkit for the procedure for seeking such approval.

Once the authorisation has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Review of a Covert Human Intelligence Source (CHIS) authorisation

Sample Form with Notes to Assist Completion

Regular reviews of all CHIS authorisations should be undertaken to assess whether they should continue or whether the criteria upon which the original decision to grant an authorisation was based have changed sufficiently to require the authorisation to be revoked. Before completing this form please read the Code of Practice (paragraphs 3.12 - 3.16 and 5.16 - 5.17).

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the CHIS operation involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained.

The actual review is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 8. Please refer to the original CHIS authorisation application form for more guidance on the definitions and principles, which are exactly the same here. A review does not have to be approved by a Magistrate.

Code of Practice/Code: The Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Applicant		Unit/Branch	
Full Address			
Contact Details			

Pseudonym or reference number of source			
Operation Name		Operation Number* *Filing Ref	
Date of authorisation or last renewal		Expiry date of authorisation or last renewal	
		Review Number	

Details of review:	
1. Review number and dates of any previous reviews.	
Review Number	Date
	If this review is part of a series of reviews then the date and number(s) of the previous review(s) must be inserted.
2. Summary of the investigation/operation to date, including what information has been obtained and the value of the information so far obtained.	
Summarise what has been done so far. You may wish to attach extracts of the Source Records. Set out what information you have obtained so far by deploying the CHIS. You also need to bring to the attention of the Authorising Officer any proposed or unforeseen changes to the nature or extent of the CHIS operation that may result in the further or greater intrusion into the private life of any person. Any such changes must also be highlighted at the next renewal if the authorisation is to be renewed.	
3. Detail the reasons why it is necessary to continue with using a Covert Human Intelligence Source.	
What more information is required? You may refer to box 6 of the original authorisation application form (as well as the guidance notes relating to it) and state what has or has not changed.	
4. Explain how the proposed activity is still proportionate to what it seeks to	

achieve.

You may refer to box 10 of the original authorisation application form (as well as the guidance notes) and state what has or has not changed. State any further considerations, which show that deployment of the CHIS is still proportionate. In the light of the use you have made of the CHIS thus far, will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.

For an explanation of collateral intrusion see the notes relating to box 7 of the original authorisation application form.

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.

For an explanation of confidential information see the notes relating to box 11 of the original authorisation application form. Consider :

- Have you recorded information about third parties? If so what?
- Can you do things differently to avoid or further minimise the collateral intrusion?

7. Give details of the review of the risk assessment on the security and welfare of using the source.

See box 9 of the original authorisation application form. Do you need to take any additional measures to safeguard the security and welfare of the CHIS?

8. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

9. Review Officer's Comments, including whether or not the use or conduct of

the source should continue?

As the reviewing officer, you should set out here why you believe that the original authorisation should continue taking care to explain the necessity and proportionality considerations. You may refer to the original authorisation application form for assistance, as many of the original considerations may still be relevant. You should also consider:

- whether any proposed changes to the CHIS operation are proportionate (bearing in mind any extra intended intrusion into privacy or collateral intrusion)
- whether you need to amend the original authorisation in the light of what you have read above e.g. reduce the timings of the surveillance or length of the operation etc.

You should make a recommendation to the Authorising Officer to cancel, continue with or amend the original authorisation.

10. Authorising Officer's Statement. The authorisation should identify the pseudonym or reference number of the source not the true identity.

If you decide that the original authorisation should continue, explain your reasons here and, if need be, set a further review date (below) bearing in mind the length of the operation and its impact on the target.

Reference can be made to the original authorisation application form, for assistance, as many of the original considerations will be relevant. Any additional requirements in terms of deploying the CHIS (e.g. security and welfare measures) should also be stated here. If you decide the authorisation should be cancelled you should explain your reasons. The cancellation form must now be completed. You should also immediately issue instructions to Investigating Officers to stop any further use or conduct of the CHIS.

Name (Print)		Grade / Rank	
Signature		Date	
Date of next review:			

Regular reviews are stressed by the Code of Practice. Where a CHIS operation is going to last more than one month the OSC has suggested that there should be a review once a month. Shorter or time limited operations may not require a review.

NOTE: Once this form is completed, a copy should be sent to the person maintaining the Central Record so that it can be updated.

Application for renewal of a Covert Human Intelligence Source (CHIS) Authorisation

Sample Form with Notes to Assist Completion

(Please attach the original authorisation.)

This form is to be completed by an officer of the local authority when the period of authorisation for a Covert Human Intelligence Source (CHIS) has expired but the deployment of the CHIS is still required. An application for renewal should not be made until shortly before the original authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Before completing this form please read the Code of Practice (paragraphs 3.12 - 3.16 and 5.18 - 5.27). The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will be renewed for a further period of twelve months.

The actual renewal is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 9.

Once completed this form should be forwarded to the Authorising Officer for approval and to complete box 10 onwards. If granted, the authorisation will cover a further period of 12 months. Please refer to the CHIS authorisation application form for more guidance on the definitions and principles mentioned below.

Code of Practice/Code: The Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch	
Full Address			
Contact Details			
Pseudonym or reference number of source			

Investigation/Operation Name (if applicable)	
Renewal Number	This should be a sequential number reflecting the number of times this particular CHIS authorisation has been renewed.

Details of renewal:	
1. Renewal numbers and dates of any previous renewals.	
Renewal Number	Date
2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.	
Has anything changed in the way the CHIS is going to be used e.g. different premises targeted, different tasks to be given, different times or equipment used etc.? Has more information come to light reflecting greater need for the CHIS e.g. seriousness of the offence, new victims?	
3. Detail why it is necessary to continue with the authorisation, including details of any tasking given to the source.	
Is the investigation/operation continuing? What more information is required to be obtained by the CHIS? What have you achieved thus far? You may refer to box 6 of the original authorisation application form (as well as the guidance notes relating to it) and state what has or has not changed.	
4. Detail why the use or conduct of the source is still proportionate to what it seeks to achieve.	
You may refer to box 10 of the original authorisation application form (as well as the guidance notes which relate to it) and state what has or has not changed. State any further considerations, which show that deployment of the CHIS is still proportionate. In the light of the use you have made of the CHIS thus far, will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?	
5. Detail the use made of the source in the period since the grant of authorisation or, as the case may be, latest renewal of the authorisation.	
What use have you made of the CHIS so far? List dates, times and places and the nature of each use. You may attach extracts from the Source Records.	

6. List the tasks given to the source during that period and the information obtained from the conduct or use of the source.

Similar to above - You may refer to the Source Records.

7. Detail the results of regular reviews of the use of the source.

This box requires you to look back at the review forms completed during the duration of the original authorisation that you are seeking to renew. You may wish to attach copies of those forms or include their unique reference numbers.

8. Give details of the review of the risk assessment on the security and welfare of using the source.

See box 9 of the original authorisation application form. Do you need to take any additional measures to safeguard the security and welfare of the CHIS?

9. Applicant's Details

Name (Print)

Tel No

Grade/Rank

Date

Signature

10. Authorising Officer's Comments. This box must be completed.

The Authorising Officer should state here whether or not he/she is satisfied that the CHIS authorisation should be extended and the reasons for his/her decisions.

Any other special requirements for the deployment of the CHIS (e.g. security and welfare considerations) should also be stated here. In particular the Authorising Officer should consider necessity, proportionality, collateral intrusion and the risk assessment and state that he/she is satisfied with all the compliance measures in place. Reference can be made to box 3 and 4 as well as any other matters taken into account.

11. Authorising Officer's Statement. The authorisation should identify the pseudonym or reference number of the source not the true identity.

An example:

"I, [insert name], hereby authorise the renewal of the deployment of the CHIS [insert pseudonym or reference] as detailed above. The renewal of this authorisation will last for 12 months unless cancelled.

This authorisation will be reviewed frequently to assess the need for it to continue."

Name (Print)

Grade / Rank

Signature

Date

Renewal From: Time:		Date: End date/time of the authorisation	

NB. Renewal takes effect at the time/date of the original authorisation would have ceased but for the renewal

Date of first review:	
Date of subsequent reviews of this authorisation:	

WHAT NEXT?

The renewal of the CHIS authorisation does not take effect until a Magistrate has approved the authorisation. See section 8 of this toolkit for the procedure for seeking such approval.

Once the renewal has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Cancellation of an authorisation for the use or conduct of a Covert Human Intelligence Source

Sample Form with Notes to Assist Completion

This form is to be completed by an officer of the local authority when cancelling the authorisation of a Covert Human Intelligence Source (CHIS). It must be signed by the Authorising Officer.

It is a statutory requirement that an authorisation is cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. Even where a CHIS operation was conducted for a short time, the authorisation must be cancelled at the end of the operation. Authorisations cannot be left to just lapse. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such. A cancellation does not have to be approved by a Magistrate.

Once completed this form should be forwarded to the Authorising Officer for approval and to complete box 3 onwards.

Before completing this form read paragraphs 5.28 and 5.29 of the Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. The RIPA Co-ordinator will provide the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch	
Full Address			
Contact Details			

Pseudonym or reference number of source	
Investigation/Operation Name (if applicable)	
Details of cancellation:	
1. Explain the reason(s) for the cancellation of the authorisation:	
This section is self explanatory. Reasons could include: “It is no longer necessary; we have obtained all the information we need.” “It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.” “We do not have the resources to continue.” “This was a short time limited operation.” “The twelve month time limit has expired and we have decided to adopt other means of investigation.”	
2. Explain the value of the source in the operation:	
State what the CHIS was tasked to do under the authorisation. How does the information/surveillance product you have acquired through the deployment of the CHIS assist with your investigation/prosecution? You may wish to look at the original CHIS authorisation application form.	
3. Authorising officer's statement. This should identify the pseudonym or reference number of the source not the true identity.	
For example: “I, [insert name], hereby cancel the authorisation of [insert pseudonym or reference number] as a CHIS for [name of authority] and require all officers to cease his/her deployment as such in any investigation/operation. “ Once cancelled you should also: - formally instruct the investigating officers to immediately cease any use or conduct involving the CHIS - issue any necessary instructions to ensure that the surveillance product (e.g. photographs, recordings etc.) are handled and stored properly (see paragraphs 8.1 to 8.3 of the Code) - consider whether it is necessary to continue with the security and welfare	

arrangements for the CHIS			
Name (Print)		Grade	
Signature		Date	
4. Time and Date of when the authorising officer instructed the use of the source to cease.			
Date:		Time:	

NOTE: Once this form is completed, a copy should be sent to the person maintaining the Central Record so that it can be updated.

GUIDE TO SEEKING MAGISTRATES' APPROVAL FOR RIPA SURVEILLANCE

Background

Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 (sections 37 and 38) came into force on 1st November 2012. This changes the procedure for the authorisation of local authority surveillance under the Regulation for Investigatory Powers Act 2000 (RIPA).

From 1st November local authorities are required to obtain the approval of a Justice of the Peace (JP) for the use of any one of the three covert investigatory techniques available to them under RIPA namely Directed Surveillance, the deployment of a Covert Human Intelligence Source (CHIS) and accessing communications data.

An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the JP is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. There is no requirement for the JP to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrates' approval process both for local authorities and the Magistrates' Court:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/>

This guidance is non-statutory but provides advice on how local authorities can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the two statutory Codes of Practice made under RIPA (revised December 2014).

For a brief summary of the approval process please see flowchart 6 at the end.

The New Magistrates' Approval Process

1. The first stage will be to apply for an internal authorisation in the usual way. Once this has been granted, the local authority will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP. The local authority will need to formally designate certain officers for this purpose under section 223 of the Local Government Act 1972.
3. The Home Office suggests that the investigating officer will be best suited to fulfill this role but the Authorising Officer may also want to attend to answer any questions.

4. The local authority will provide the JP with a copy of the original RIPA authorisation. This forms the basis of the application to the JP and should contain all information that is relied upon. In addition, the local authority will provide the JP with two copies of a partially completed judicial application/order form (which is included in the Home Office Guidance)(**see the next section for an example with notes to assist completion**).
5. The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation and the judicial application/order form. He/She may have questions to clarify points or require additional reassurance on particular matters. The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.
6. The JP will consider whether he or she is satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. He/She will also consider whether there continues to be reasonable grounds. In addition the JP must be satisfied that the Authorising Officer was of an appropriate level within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance)
7. The order section of the above mentioned form will be completed by the JP and will be the official record of his/her decision. The local authority will need to retain a copy of the form after it has been signed by the JP.

Magistrate's Options

The JP may decide to –

- ***Approve the grant/renewal of the authorisation***

The grant/renewal of the authorisation will then take effect and the local authority may proceed to use the surveillance technique mentioned therein. A copy of the order must be kept on the central record of authorisations.

- ***Refuse to approve the grant/renewal of the authorization on a technicality***

The RIPA authorisation will not take effect and the local authority may not use the surveillance technique in that case. The authority will need to consider the reasons for the refusal. A technical error in the form may be remedied without the need to go through the internal authorisation process again. The authority can then reapply for Magistrates' approval.

- ***Refuse to approve the grant/renewal and quash the authorisation***

AJP may refuse to approve the grant or renewal of an authorisation and decide to quash the original authorisation. This may be because he/she believes it is not

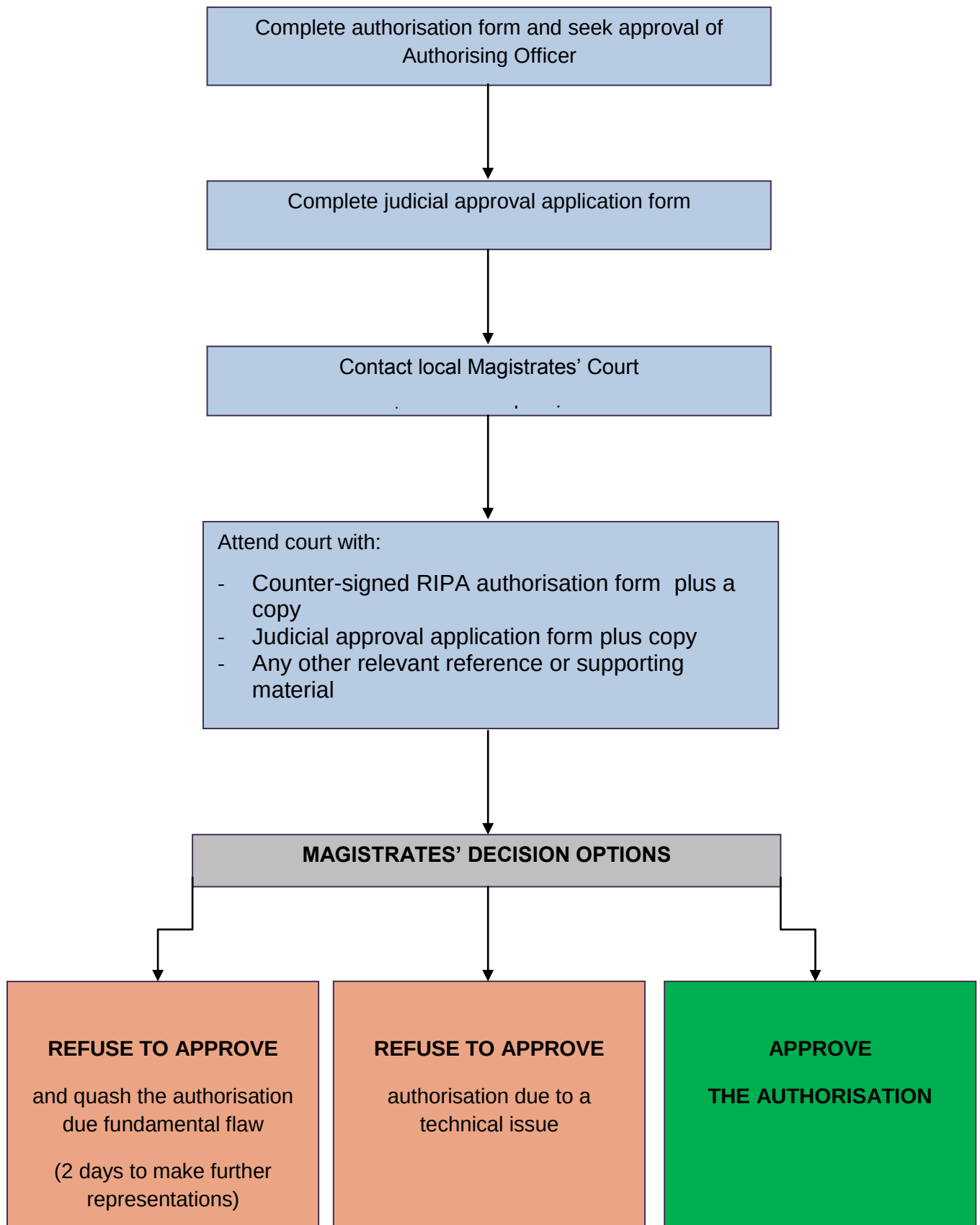
necessary or proportionate. The RIPA authorisation will not take effect and the local authority may not use the surveillance technique in that case. The JP must not exercise his/her power to quash the authorisation unless the local authority has had at least two business days from the date of the refusal in which to prepare and make further representations to the court.

Appeals

A local authority may only appeal a JP's decision to refuse approval of an authorisation, on a point of law by making an application for Judicial Review in the High Court.

The Investigatory Powers Tribunal (IPT) will continue to investigate complaints by individuals about the use of RIPA techniques by public bodies, including local authorities. If, following a complaint to them, the IPT finds fault with a RIPA authorisation it has the power to quash the JP's order which approved the grant or renewal of the authorisation. It can also award damages if it believes that an individual's human rights have been violated by the local authority.

Flowchart 6 - The Magistrates' Approval Process



Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance

Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, and 32B

Local authority:.....

Local authority department:.....

Offence under investigationⁱ.....

Address of premises or identity of

subject:ⁱⁱ.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of detailsⁱⁱⁱ

.....

.....

.....

.....

.....

.....

.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer

Authorising Officer

Officer(s) appearing before JP ^{iv}

Address of applicant department:

Contact telephone number.....

Contact email address (optional)

Local authority reference.....

Number of pages.....

**Order made on an application for judicial approval for
authorisation to obtain or disclose communications data, to use a covert
human intelligence source or to conduct directed surveillance.
Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B**

Magistrates' court

Having considered the application, I (tick one):

☐ am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.

☐ ^vrefuse to approve the grant or renewal of the authorisation/notice.

☐ ^{vi}refuse to approve the grant or renewal and quash the authorisation/notice.

Reasons

.....
.....
.....

Notes

.....
.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

¹Insert the offence or disorder that you are investigating. If you are seeking authorisation for Directed Surveillance make sure that the criminal offence you are investigating attracts a maximum custodial sentence of six months or more or relates to the underage sale of alcohol or tobacco (as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012.

¹You may not know the identity of the person in which case you can include a description and/or how they relate to the offence/disorder under investigation.

¹This forms the basis of the application to the JP and should contain all information that is relied upon. You may wish to set out in brief:

- What information you are seeking from the surveillance
- What the surveillance will involve e.g. covert cameras, CHIS
- How long the surveillance will last

You do not need to go into a lot of detail as this form should have the original authorisation form attached.

¹ Any officer employed by the Council can appear before the Magistrate. The Home Office suggests that the Investigating Officer is best placed to do this. Make sure that whoever appears is formally designated to do so under section 223 of the Local Government Act 1972.

¹The order section of this form will be completed by the Magistrate and will be the official record of the Magistrate's decision. The Council will need to retain a copy of the judicial application/order form after it has been signed by the Magistrate. This should be kept with the original authorisation on the Central Record of authorisations.

¹If the Magistrate refuses to approve the authorisation, surveillance cannot be undertaken. This may be due to a technical error which can be corrected. Read the reasons for refusal and seek advice from the SRO, RIPA Coordinator or Legal Services with regards to the next steps.

¹If the Magistrate decides to quash the authorisation, surveillance cannot be undertaken. You will have two days to make further representations. Read the reasons for refusal and seek advice from the SRO, RIPA Coordinator or Legal Services with regards to the next steps.

9 NON - RIPA SURVEILLANCE

From time to time a local authority may wish to undertake covert surveillance, which is not regulated by RIPA. This is fine as RIPA is permissive legislation.

Authorisation under RIPA affords a public authority a defence under Section 27 i.e. the activity is lawful for all purposes. However, failure to obtain an authorisation does not make covert surveillance unlawful. S. 80 states:

“Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, shall be construed –

(a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act;

(b) as otherwise requiring—

(i) the issue, grant or giving of such a warrant, authorisation or notice, or

(ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice,

before any such conduct of that description is engaged in; or

(c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.”

This point was explained more fully by the Investigatory Powers Tribunal in the case of [C v The Police \(Case No: IPT/03/32/H 14th November 2006\)](#):

“Although RIPA provides a framework for obtaining internal authorisations of directed surveillance (and other forms of surveillance), there is no general prohibition in RIPA against conducting directed surveillance without RIPA authorisation. RIPA does not require prior authorisation to be obtained by a public authority in order to carry out surveillance. Lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful.”

A local authority may wish to such “Non-RIPA Surveillance” for one of two reasons:

9.1 Crimes Not Carrying Six Months Imprisonment

From 1st November 2012, local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010 Order. Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or

section 7 of the Children and Young Persons Act 1933 (offences involving sale of tobacco and alcohol to underage children).

Just because a crime does not meet the six month test does not mean covert surveillance cannot be done. This point is made by the Chief Surveillance Commissioner in his [annual report](#) (2010/2011):

“The higher threshold in the proposed legislation will reduce the number of cases in which local authorities have the protection of RIPA when conducting covert surveillance; it will not prevent the use of those tactics in cases where the threshold is not reached but where it may be necessary and proportionate to obtain evidence covertly and there will be no RIPA audit trail. Part I of RIPA makes unauthorised interception unlawful. In contrast, Part II makes authorised surveillance lawful but does not make unauthorised surveillance unlawful.”

9.2 Employee Surveillance

Most employee surveillance will not be authorisable under RIPA, if a previous decision by the Investigatory Powers Tribunal is to be followed.

In *C v The Police and the Secretary of State for the Home Department* (14th November 2006, No: IPT/03/32/H), C, a former police sergeant, retired in 2001 having made a claim for a back injury he sustained after tripping on a carpet in a police station. He was awarded damages and an enhanced pension due to the injuries.

In 2002, the police instructed a firm of private detectives to observe C to see if he was doing anything that was inconsistent with his claimed injuries. Video footage showed him mowing the lawn. C sued the police claiming they had carried out directed surveillance without an authorisation. The Tribunal first had to decide if it had jurisdiction to hear the claim. The case turned on the interpretation of the first limb of the definition of directed surveillance i.e. was the surveillance “for the purposes of a specific investigation or a specific operation?”

The Tribunal ruled that this was not the type of surveillance that RIPA was meant to regulate. It made the distinction between the ordinary functions and the core functions of a public authority:

“The specific core functions and the regulatory powers which go with them are identifiable as distinct from the ordinary functions of public authorities shared by all authorities, such as the employment of staff and the making of contracts. There is no real reason why the performance of the ordinary functions of a public authority should fall within the RIPA regime, which is concerned with the regulation of certain investigatory powers, not with the regulation of employees or of suppliers and service providers.”

The Tribunal also stated that it would not be right to apply RIPA to such surveillance for a number of reasons:

- 1) RIPA does not cover all public authorities, and there was no sense in police employee surveillance being conducted on a different legal footing than, for example, the Treasury, which does not have the same surveillance rights under RIPA.
- 2) The Tribunal has very restrictive rules about evidence, openness and rights of appeal. The effect of these would lead to unfairness for employees of RIPA authorities when challenging their employers' surveillance as compared to those who were employed by non RIPA authorities.

This case suggests that, even where employee surveillance is being carried out on one of the grounds in section 28(3), the question has to be; is it for a core function linked to one of the authority's regulatory functions? In the local authority context this would include, amongst others, trading standards, environmental health and licensing. If it is not being done for one of these purposes it will not be directed surveillance.

9.3 Human Rights Compliance

Covert surveillance done without a RIPA authorisation will not have the protection of RIPA (i.e. the defence in section 27). However it will still be able to be undertaken as long as it is done in accordance with the European Convention on Human Rights (ECHR) which is directly enforceable against public authorities pursuant to the Human Rights Act 1998. Article 8 of the ECHR states:

"Everyone has the right to respect for his private and family life his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the rights and freedoms of others."

To satisfy Article 8, the covert surveillance must be both necessary and proportionate. In deciding whether it is, the same factors need to be considered as when authorising surveillance regulated by RIPA.

See section 6 of this toolkit, which contains a detailed explanation of these concepts. Flowchart 7 at the end of this section will also assist.

9.4 Data Protection Compliance

When doing covert surveillance of employees not regulated by RIPA, the Data Protection Act 1998 (DPA) will apply as personal information about living individuals will be being processed e.g. their movements, photographs etc.

The Information Commissioner has published a Data Protection Employment Practices Code of Practice (available at www.ico.gov.uk). Part 3 of this code covers all types of employee surveillance from video monitoring and vehicle tracking to email and internet surveillance. It gives guidance on how to do employee surveillance in a way which complies with the DPA. Whilst the code is not law, it can

be taken into account by the Information Commissioner and the courts in deciding whether the DPA has been complied with.

The code states that employee monitoring should take place for a clear justified purpose and employees should be aware that it is taking place. With regard to covert surveillance it states that it will be rare for such monitoring to be justified. It should therefore only be used in exceptional circumstances e.g. prevention or detection of crime or serious malpractice.

One of the other main recommendations of the code is that senior management should normally authorise any covert monitoring of employees. They should satisfy themselves that there are grounds for suspecting criminal activity or equivalent malpractice. They should carry out an impact assessment and consider whether the surveillance is necessary and proportionate to what is sought to be achieved.

The code sets out other rules that local authorities (and others) need to consider when doing covert surveillance of employees:

- Prior to the investigation, clear rules must be set up limiting the disclosure and access to information obtained.
- The number of people involved in a covert monitoring exercise should be limited.
- The surveillance must be strictly targeted at obtaining evidence within a set time frame and it should not continue after the investigation is complete.
- If using audio or video equipment, this should not normally be used in places such as toilets or private offices.
- Information obtained through covert monitoring should only be used for the prevention or detection of criminal activity or serious malpractice.
- Other information collected in the course of monitoring should be disregarded and, where feasible, deleted unless it reveals information that no employer could reasonably be expected to ignore.

Please see the detailed employee surveillance briefing note in the next section.

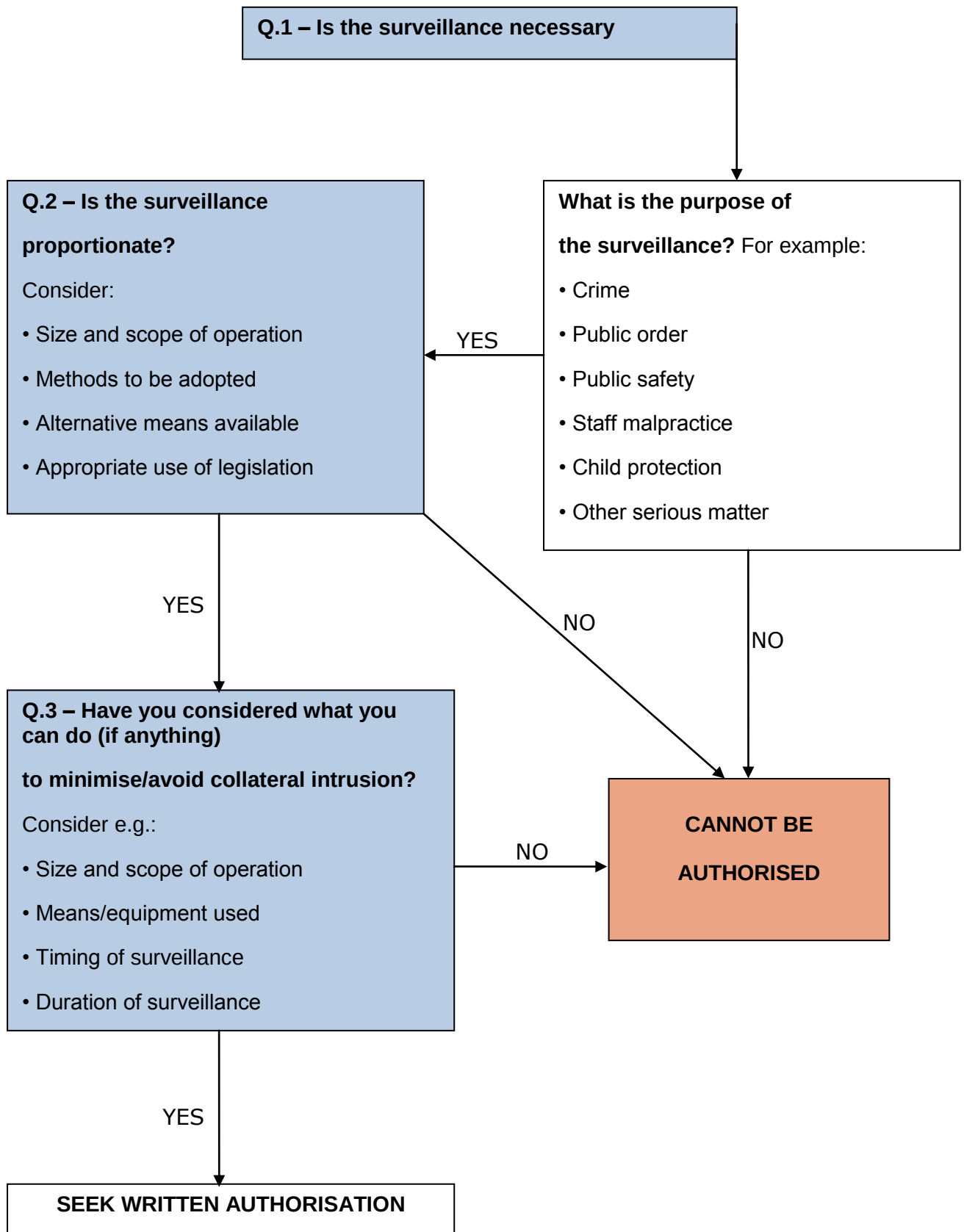
9.5 Non – RIPA Surveillance Form

In both the above cases it is important to have a proper audit trail through written records. In his annual report (2011/2012) the Chief Surveillance Commissioner (at paragraph 5.22) emphasises this:

“I occasionally encourage the use of similar authorisation mechanisms for activity which cannot be protected by the Acts (for example where covert techniques are used to identify a missing person when no crime is suspected). In these circumstances statutory definitions are met but none of the grounds specified in RIPA section 28(3) or RIP(S)A section 6(3), yet the human rights of the subject of surveillance must be considered. The authorisation process provides a useful audit of decisions and actions.”

Please see the Non-RIPA authorisation form and cancellation form at the end of this section for guidance – blank forms are accessible on ALFRESCO.

Flowchart 7 - Authorising Non RIPA Surveillance



10 EMPLOYEE SURVEILLANCE AND THE DATA PROTECTION ACT

Confusion still reigns as to which legislation applies and what can be done lawfully when employers wish to undertake surveillance of employees. If the employer is a public authority and the surveillance involves covert techniques or equipment, it is easy to assume that Part 2 of RIPA applies. However, [the Investigatory Powers Tribunal](#) has ruled in the past that not all covert surveillance of employees is regulated by RIPA (See *C v The Police and the Secretary of State for the Home Department* (14th November 2006, No: IPT/03/32/H)).

All employers, whether in the public or the private sector, have to respect their employees' right to privacy under [Article 8 of the European Convention on Human Rights](#). This means that the surveillance must be carried out in a manner that is in accordance with the law and is necessary and proportionate (see [Copland v UK \(3rd April 2007 ECHR\)](#)).

Consideration also has to be given to the provisions of [the Data Protection Act 1998](#) (DPA) as, during the course of the surveillance, the employer will inevitably be gathering personal data about employees. Compliance with the DPA will also help demonstrate that the surveillance is human rights compliant since protection of individuals' privacy is a cornerstone of the DPA.

The Information Commissioner's Office's (ICO) [Employment Practices Code](#), includes a section on surveillance of employees at work. It covers all types of employee surveillance from video monitoring and vehicle tracking to email and internet surveillance. Whilst the code is not law, it will be taken into account by the ICO and the courts whether deciding whether the DPA has been complied with.

In December 2014, Caerphilly County Borough Council signed an [undertaking](#) after an ICO investigation found that the Council's surveillance of an employee, suspected of fraudulently claiming to be sick, had breached the DPA. The council's decision to authorise the surveillance was based on anecdotal evidence and was begun only four weeks into the employee's sickness absence. No other measures were taken to discuss the employee's absence before the decision to deploy covert surveillance. The subsequent surveillance report, which was produced by a private company, was never used. The ICO determined the council did not have sufficient grounds to undertake the surveillance, especially at such an early stage of the employee's absence.

The council has undertaken that, in future, it will carry out an impact assessment, (as required by the code) in every case of employee surveillance. This will consider whether the adverse impact of the surveillance on the employee(s) is justified by the benefits to the employer and others. Such an impact assessment must also:

- clearly identify the purpose(s) behind the surveillance and the benefits it is likely to deliver,
- identify any likely adverse impact of the surveillance,

- consider alternatives to surveillance or different ways in which it can be carried out
- take into account the obligations that arise from the surveillance, and
- judge whether the surveillance is justified.

This assessment is best done in writing using a “Non-RIPA” surveillance form. Furthermore the council agreed some general principles which are useful for all employers to note when deciding to conduct covert surveillance of employees:

- Senior management should authorise any covert monitoring. In doing so they must satisfy themselves that there are grounds for suspecting criminal activity or equivalent malpractice (i.e. serious but non-criminal employee misbehaviour, such as fraudulently claiming sick pay) and that notifying individuals about the monitoring would prejudice its prevention or detection.
- Such covert monitoring should only be used in exceptional circumstances, as it will be rare for covert monitoring of employees to be justified.
- Ensure that any covert monitoring is strictly targeted at obtaining evidence within a set timeframe and that the covert monitoring does not continue after the investigation is complete.
- Do not use covert audio or video monitoring in areas which workers would genuinely and reasonably expect to be private.
- If a private investigator is employed to collect information on workers covertly make sure there is a contract in place that requires the private investigator to only collect information in a way that satisfies the employer’s obligations under the Act.
- Check any arrangements for employing private investigators to ensure your contracts with them impose requirements on the investigator to only collect and use information on workers in accordance with your instructions and to keep the information secure.
- Ensure that information obtained through covert monitoring is used only for the prevention or detection of criminal activity or equivalent malpractice.
- Disregard and, where feasible, delete other information collected in the course of monitoring unless it reveals information that no employer could reasonably be expected to ignore.

RIPA may not always apply but compliance with the DPA and the relevant codes of practice should ensure that any directed surveillance undertaken by Boston Borough Council it is human rights compliant and any resulting evidence admissible in any enforcement case or other legal proceedings.

Please see the Non-RIPA authorisation form at the end of this section. Blank forms are accessible on ALFRESCO.

Boston Borough Council departmental Non-RIPA Authorising Officers are set out at **APPENDIX 2.**

11 NON-RIPA Authorisation Form

Application for Authorisation to conduct Covert Surveillance not regulated by RIPA

Sample Form with Notes to Assist Completion

This form (accessible on ALFRESCO) should be completed by an officer of the local authority seeking authorisation to carry out surveillance which **does not** fall within the definition of Directed Surveillance in section 28 of the Regulation of Investigatory Powers Act 2000 (RIPA). This could include surveillance where the target is doing something which is not criminal offence (or which does not carry a term of imprisonment of six months or more), misusing the work e mail/internet system or breaching a legal agreement (e.g. tenancy agreement).

Before completing this form please consult:

- The briefing notes in section 9 of this toolkit
- The ICO Employment Practices Code: Part 3 (Staff Surveillance)
- Your legal department

Once completed this form should be forwarded to your manager to complete box 11 onwards.

Organisation (including full address)			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other			

than the applicant)	
DETAILS OF APPLICATION	
1. Give rank or position of the authorising officer	
This is the person who will decide whether or not the surveillance should be authorised and will countersign this form. It may be the head of the department carrying out the surveillance. If in doubt consult your legal department.	
2. Describe the purpose of the specific operation or investigation.	
Explain what is being investigated. For example: • Misuse of email/internet • An employee “fiddling” his/her timesheet • Breach of a tenancy agreement If possible, include the relevant legislation that which gives you the power/duty to investigate the matter and to take action.	
3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, and recorder) that may be used.	
The key phrase is “in detail.” Therefore a response which merely states “Video camera and recording equipment will be installed at a fixed point” will not be adequate. Your statement here needs to include what is going to be done, who is going to do it, when they are going to do it, where they are going to do it and how they are going to do it. Other points to address here include: • How long will the surveillance last? • Specific details about dates and times i.e. is it 24/7, at specific times of the day or at random times? • Which premises are to be used and/or targeted? • Which vehicles are to be used? Are they public or private? • What type of equipment is to be used? e.g. covert cameras, audio devices • What is the capability of the equipment to be used? e.g. zoom lense, remote controlled etc. • Who else will be involved in the operation and what will be their role? e.g. private detectives, police It may be appropriate to attach plans/maps showing where and how the surveillance will be conducted and indicating where any surveillance equipment will be installed.	
4. The identities, where known, of those to be subject of the directed surveillance.	
• Name: • Address:	

- DOB:
- Other information as appropriate:

Include as much information as you have. If you do not know the identity of the target(s) then say so. You could include a general description of the target(s).

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

Your statement here should be more detailed than in Box 2. You should give details of the precise information sought by doing the surveillance. For example:

- “To ascertain what time the employee enters and leaves the office.”
- “To capture images of the employee making unauthorised visits to service users.”
- “To find out what websites the employee has been visiting and what images have been downloaded.”

6. Has any warning/notice been served on the target? If not, explain why this surveillance needs to be covert

The warning could be general one (e.g. signs/policy) or it could be more specific (e.g. letter).

Explain any overt methods you have tried to obtain the evidence/information or why they are not appropriate.

Explain the consequences of the target finding out about this surveillance.

7. Explain why this surveillance is necessary

Include in this box details of:

- Why surveillance is needed to obtain the information/evidence that is sought
- Any other means you have tried (not involving surveillance) to obtain the same information/evidence
- Any other evidence/information you have to link the target with the offender which requires corroboration through surveillance

8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. Describe precautions you will take to minimise collateral intrusion

When doing surveillance you may be invading the privacy of those who are not your target. You are required to think about their rights and what you can do to minimise the impact on them of your surveillance. People who may be the subject of collateral intrusion include:

- fellow employees
- visitors to a property
- friends or relatives of the suspect

When completing this section, three matters should be addressed:

Firstly, identify which third parties will be the subject of collateral intrusion and what that intrusion will be i.e. what information will be captured about them?

Secondly, state why this is unavoidable. This could be because of the nature of the premises (e.g. a restaurant) or because of what the person is doing (e.g. visiting the subject/target premises). In some cases there will always be third parties around who will be captured on film or whose activities will be recorded/observed in some way.

Thirdly, set out what steps you have taken to minimise collateral intrusion, if this is possible.

If you cannot minimise collateral intrusion you still need to show you have considered it. In some situations all you may be able to state is that you cannot do anything to minimise collateral intrusion but you will not be making any decisions based upon the information gathered about third parties unless it shows them committing a criminal offence. Furthermore, you will ensure that officers who do the surveillance or view any recordings are mindful of who the real target of the surveillance is.

9. Explain why this surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?

The RIPA Covert Surveillance Code of Practice contains detailed guidance on proportionality:

“3.4...This involves balancing the seriousness of the intrusion into the privacy of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.5 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Here you demonstrate that you have:

- balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explained how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- considered whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

In order to comply with the above you need to address the following questions:

- Can you get information using less intrusive means/overt methods?

- What other means have you tried to obtain the same information/evidence?
- What have you done to try and lessen the impact on the target? Factors to address include:
 - Amount of information to be gathered during surveillance
 - The way the surveillance is done e.g. using still cameras rather than video to capture less information or using one camera rather than two.
 - Impact of the surveillance on the subject
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the activity in operational terms. To demonstrate this balance you should address:

- What you are seeking to achieve?
- Seriousness and extent of the offence
- Impact of the offence on the victims, others/wider community and on the public purse

For more guidance on proportionality see chapter 3 of the RIPA Covert Surveillance Code and the Employment Practices Data Protection Code (Part 3).

10. Applicant's Details.			
Name (print)		Tel No:	
Grade/Rank		Date	
Signature			
11. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]			
I hereby authorise directed surveillance defined as follows: <i>[Why is the surveillance necessary, Who is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?]</i> This section is for the Authorising Officer to complete. Ensure that you are satisfied that any covert monitoring is strictly targeted at obtaining evidence within a set timeframe and that it does not continue after the investigation is complete. Sufficient detail must be included here to demonstrate that you, as the Authorising Officer, have considered the application objectively. Reference can be made to the boxes completed by the Investigating Officer above but "cut and paste" should be avoided. The five "Ws" stated above must be addressed in detail. This is important so that the			

Investigating Officers are clear as to what they can and cannot do and the means they can adopt.

You should not be afraid to reject the application if it lacks clarity or detail.

12. Explain why you believe the surveillance is necessary.

Explain why you believe the surveillance to be proportionate to what is sought to be achieved by carrying it out.

You should satisfy yourself that there are grounds for suspecting criminal activity or equivalent malpractice and that notifying individuals about the monitoring would prejudice its prevention or detection. Set out what matters in the respective boxes you have given particular weight to when considering necessity and proportionality. You can also add any additional factors you have considered.

Date of first review		If the surveillance operation is going to last more than a month then you should consider whether it should be reviewed after a period of time. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate.	
Programme for subsequent reviews of this authorisation: Only complete this box if review dates after the first review are known. If not or inappropriate to set additional review dates then leave blank.			
Name (Print)		Grade / Rank	State the position of the Authorising Officer e.g. Head of Audit
Signature		Date and time	
Authorising Officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons.			
Expiry date and time			

NOTE: Once an authorisation has been granted, a copy of this form should be retained securely by the Authorising Manager for five years. The Authorising Manager will enter the details of the Authorisation onto their Departmental Register which will be kept securely on ALFRESCO. As recommended at Para 80 of the 2014 OSC Procedures and Guidance, the Senior Responsible Officer

will regularly review the use of any covert surveillance undertaken outside of RIPA.

When the surveillance has ended or is no longer required it is good practice to cancel the authorisation. This can be done using the following form.

NON-RIPA Authorisation Cancellation Form

Cancellation of an authorisation to conduct covert surveillance not regulated by RIPA

Sample Form with Notes to Assist Completion

This form is to be completed when cancelling an authorisation for surveillance not regulated by RIPA. It is not a statutory requirement but is best practice. An authorisation should be cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

Details of cancellation:			
1. Explain the reason(s) for the cancellation of the authorisation:			
This section is self explanatory. Reasons could include: “It is no longer necessary; we have obtained all the information we need.” “It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.” “We do not have the resources to continue.” “This was a short time limited operation.” “The three month time limit has expired and we have decided to use other investigation methods.”			
2. Explain the value of surveillance in the operation:			
State what actual surveillance was carried out under the authorisation. Explain what was achieved through the surveillance including information acquired as well as any surveillance product e.g. photographs, recordings etc. How is the surveillance product being stored, destroyed or otherwise handled? How does the information/surveillance product assist with your investigation/prosecution? You may wish to look back at the original authorisation application form for this surveillance, in particular box 2 and box 5.			
3. Authorising officer's statement.			
I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above. Also include here directions to the Investigating Officers for the management and storage of the product of the surveillance e.g. photographs and other evidence.			
Name (Print)		Grade	
Signature		Date	
4. Time and Date of when the authorising officer instructed the surveillance to cease.			
Date:		Time:	
It is important to formally instruct Investigating Officers to immediately cease any surveillance which is still ongoing and record that fact here and in the Central Record.			
5. Authorisation cancelled	Date:		Time:

NOTE: Once an authorisation has been granted, a copy of this form should be retained securely by the Authorising Manager for five years. The Authorising

Manager will enter the details of the Authorisation onto their Departmental Register which will be kept securely on ALFRESCO. As recommended at Para 80 of the 2014 OSC Procedures and Guidance, the Senior Responsible Officer will regularly review the use of any covert surveillance undertaken outside of RIPA.

Appendix 1 – Boston Borough Council Proper RIPA Officers

BOSTON BOROUGH COUNCIL'S PROPER RIPA OFFICERS ARE:

- **PHIL DRURY, HEAD OF PAID SERVICE**
- **MICHELLE SACKS, SENIOR RESPONSIBLE OFFICER AND SOLICITOR TO THE COUNCIL**
- **ANDY FISHER, HEAD OF SERVICE, RIPA COORDINATOR**
- **GEORGE BERNARD, HEAD OF SERVICE – AUTHORISING OFFICER**
- **PAUL JULIAN – HEAD OF SERVICE – AUTHORISING OFFICER**

Appendix 2 – Boston Borough Council Non-RIPA Authorising Officers

BOSTON BOROUGH COUNCIL'S NON-RIPA AUTHORISING OFFICERS ARE:

- **PETER HUNN – COMMUNITY SERVICES**
- **FIONA WHITE – LICENSING AND LANDCHARGES**
- **PAUL EDWARDS – DEVELOPMENT CONTROL**
- **MATT FISHER – OPERATIONS**
- **TONY GRAY – ENVIRONMENTAL HEALTH**
- **TRACEY MANTON – REVENUES AND BENEFITS**
- **KELLY CLARKE – FRAUD AND RECOVERY**
- **PAUL SMITH – BUILDING CONTROL**
- **BECKY GARDNER – PEOPLE SERVICES**
- **STEVE LUMB – PARTNERSHIPS AND SUSTAINABILITY**

Appendix 3 – RIPA Key changes

THE NEW RIPA SURVEILLANCE CODES: KEY CHANGES

By Sam Lincoln (Chief Surveillance Inspector 2006 - 2013)

Covert Surveillance and Property Interference Code

Let's begin with the Covert Surveillance and Property Interference Code. It might be worth having a copy (printed or online) handy as I'll refer to relevant paragraph numbers in square brackets ([]):

[2.18] The first sentence is amended to account for the fact that some legal consultations which might otherwise be Directed Surveillance are now to be authorised as Intrusive Surveillance.

[2.24] Examples 3 and 4 have been amended. I am particularly uncomfortable with the amendment to Example 4 which relegates the requirement for an authorisation from "should be sought" to "should ... be considered". The inference is that planned covert surveillance of an individual *suspected* of shoplifting depends on the public authority deciding whether the individual has a reasonable expectation of privacy. Assessing what is reasonable and what is assumed by another person is open to challenge. It is because examples can mislead that the Office of Surveillance Commissioners (OSC), during my tenure, advised against the inclusion of examples. For this reason it's vital that applicants and authorising officers note [1.7].

[2.27] This paragraph has been expanded to include guidance provided by the [Surveillance Camera Code of Practice](#) pursuant to the Protection of Freedoms Act.

[2.29] This new paragraph provides important guidance regarding the need to consider whether an authorisation for either Directed Surveillance or a CHIS is required when using the Internet. As usual, it lacks the clarity usually sought by practitioners but it is clear that *prior* consideration should be given to the need for authorisation; it's not acceptable to ignore this advice and I urge Senior Responsible Officers to ensure that they alert *all* public authority staff to its implications.

[2.30] The third bullet point of this paragraph is amended to differentiate between non-verbal and verbal noise.

[3.7] The original examples 2 and 3 are deleted. I suspect that the cause is that neither could be protected by a RIPA authorisation as a result of the 2010 Order. But then again, nor does Example 1!

[3.18] This is a new paragraph and covers the use of third party individuals or organisations (for example private investigators and internet researchers). They are acting as agents of the public authority and the need for relevant authorisation must not be ignored.

[3.22] The deletion of reference to Scottish public authorities suggests that there is no collaboration agreement with any public authorities in Scotland.

[3.30 – 3.33] These new paragraphs cover the changes to local authority authorisations of Directed Surveillance resulting from the Protection of Freedoms Act 2012.

[3.35] This paragraph amends the requirement for elected members to consider internal reports submitted on a 'regular basis' rather than at least quarterly. I'm personally disappointed that there's no restriction on the detail of authorisations that elected members are entitled to see to prevent inadvertent compromise.

[4.1] The fourth sentence is amended slightly for grammatical effect it seems. The definition of a Member of Parliament is deleted and placed in the glossary at the back of the code.

[5.18] I recall that the OSC advised that there is no 'legal' requirement for any further details to be recorded and would have preferred the code to be more assertive. It's disappointing that this advice is ignored.

[5.20] It isn't clear why all of the footnotes relating to this paragraph are deleted.

[6.2] Is amended to include directed surveillance.

[7.8] This paragraph isn't amended despite, to my knowledge, earlier criticism of the accuracy of its first sentence by the OSC. I am not a lawyer but, if I recall accurately, neither loss nor damage is necessary for there to be property interference. Subsequent analysis of a sample isn't, of itself, surveillance; it's the obtaining of the sample itself which may need authorisation.

[8.1] An additional sentence is added directing local authorities to the .gov.uk website for further guidance on the recording of Magistrates' decisions.

[8.2] A final bullet is included requiring local authorities to retain a copy of the Magistrates' approval order in a centrally retrievable form.

[8.4] This is a new paragraph advising that it is desirable that relevant records should be retained, if possible, for up to **five** years.

CHIS Code of Practice

Let me turn now to the revised CHIS Code of Practice.

[2.4] This alerts the reader to the renaming of CHIS previously known as undercover officers to 'relevant source'. Not a particularly helpful title. Contrary to this paragraph, not all references to undercover officers are amended in this revision of the Code.

[2.12] The final sentence of this paragraph is an important amendment. It alerts public authorities to the fact that the existence of a CHIS is not a choice for a public authority. Whether to authorise the use and conduct of a CHIS is a choice of course, but in my experience too often public authorities wished the problem away. In short, all public authorities must acknowledge that a CHIS may appear at any time and must have procedures in place to manage them in accordance with the law.

[2.14] This new paragraph obliges 'relevant sources' to comply with the College of Policing Code of Ethics.

[2.15] This is a new paragraph obliging the authorisation of activity known as 'legend building'.

[2.16] This seems an unnecessary paragraph considering that types of human sources falling outside the CHIS definition are provided specific attention.

[2.17] This new paragraph introduces the concept of a public volunteer (with examples) in addition to the previously existing concept of a human source with a professional or statutory duty.

[3.12] This paragraph is amended in recognition that the 2013 Order introduced enhanced arrangements.

[3.22] The amendment to this paragraph emphasises that the enhanced arrangement for relevant sources relies on accurate recording of the length of deployment of each relevant source.

[3.26 – 3.27] This new section is specific to the use of CHIS by local authorities and the approval by Magistrates. It highlights differences between authorities in England and Wales, Scotland, and Northern Ireland. Similar direction is provided to the need for elected member review but, as I was disappointed with the direction in the other Code, I believe that there is benefit in restricting the detail available to elected members in relation to the use and conduct of a CHIS to prevent compromise.

[4.3] This reminds the reader that 'relevant sources' are subject to enhanced arrangements when accessing legally privileged and other confidential information.

[4.31] There is an addition to cover the engagement of a member of a foreign law enforcement agency.

[4.32] This is an important new paragraph covering the considerations necessary to authorise the use and conduct of a CHIS for some online covert activity. It should be read in conjunction with [2.29] of the Covert Surveillance and Property Interference Code of Practice.

[5.10] This new paragraph clarifies the enhanced arrangements for relevant sources.

[5.15] Two sentences are added to this paragraph. The first states that local authorities are no longer able to orally authorise the use of RIPA techniques. The second relates to out of hours arrangements.

[5.16] An amendment to this paragraph introduces additional information to include at review; namely the information obtained from a CHIS and the reasons why executive action is not possible *if that is the case* (my italics are an addition).

[5.21 and 5.22 – 5.26] These new paragraphs relate to enhanced arrangements for the use and conduct of relevant sources. They provide detail regarding timings and,

importantly, the calculation of total or accrued deployment or cumulative authorisation periods.

[5.29] An additional sentence requires an authorising officer to satisfy themselves that all welfare issues are addressed at the time of CHIS cancellation.

[5.30 – 5.31] These new paragraphs relate to the refusal of an Ordinary Surveillance Commissioner to approve a long term authorisation. Importantly, it obliges public authorities to plan for the safe extraction of a relevant source if an authorisation is refused.

[6.6] The addition of a final sentence recognises concerns raised by the OSC in relation to traditional police appointments and their responsibilities as defined by RIPA.

[7.3] Similar to [8.4] of the Covert Surveillance and Property Interference Code revision, this new paragraph (and amendment of [7.1] and [7.6]) recommends that relevant RIPA records should be retained for five years if possible.

[7.6] The addition of a bullet point requires that the decision of an Ordinary Surveillance Commissioner should be retained.

There is one other point I would like to make about the CHIS Code; there is no reference to the fact that the Protection of Freedoms Act 2012 did not restrict the use or conduct of a CHIS to the prevention or detection of crimes not attracting a six month sentence as it did for other types of covert surveillance.

APPENDIX 4 – POLICY VERSION CONTROL

VERSION SERIALISATION	DATE EFFECTIVE	AMENDED BY: POSITION AND DATE	APPROVED BY:	CHANGES

PART 5 (SECTION H)

Members' Protocol on Data Protection

1.0 Introduction

This document provides the framework for Members on those parts of the Data Protection Act (DPA) which directly affect them in the course of their duties and must be followed at all times.

2.0 The Data Protection Act

- 2.1 The Data Protection Act 1998 came into force on 1st March 2000. The Act regulates the ways that organisations (data controllers) collect, store and process personal data.

These regulations apply to all automated systems including computers, CCTV, tape recording, e-mail, photographs and, from 24th October 2001, many paper-based and other manual filing systems.

The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 amended the existing provision to facilitate the processing of "sensitive personal data" by Elected Representatives in some circumstances.

- 2.2 The Data Protection Act 2018 incorporates the provisions of the Europe wide General Data Protection Rules (GDPR), Law Enforcement Directive and local derogations to the GDPR.

The GDPR further strengthens the rights of individuals (data subjects) to access their personal data records and have any mistakes corrected.

- 2.3 This protocol will refer to the definitions due to be enacted in the Data Protection Act 2018, which will comply with the GDPR.

- 2.4 "Personal data" means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as;

- a name
- an identification number
- location information
- an online identifier
- or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

2.5 “Special Category” or previously “Sensitive Personal Data” is personal data revealing;

- racial or ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person
- information concerning health
- information concerning a natural person’s sex life or sexual orientation.

2.6 The DPA imposes a number of controls in relation to personal data. The main controls are:

- (a) Personal data **may not** be “processed” except in accordance with the provisions of the DPA.

“Processing” being a very wide term which includes almost anything that can be done with data.

In addition to activities such as organising, adapting and altering the data, “processing” includes such basic activities as obtaining, deleting, holding or even merely reading the data.

Stricter conditions for processing apply in the case of “special category” personal data.

- (b) Processing of personal data may only be carried out by registered Data Controllers.

The Council has registered its activities with the Information Commissioner’s Office (ICO) and can therefore process personal data as a Data Controller.

Members must be registered with the ICO for the purposes of their constituent activities.

- (c) Data must be handled in accordance with the Data Protection principles which are set out in the Act. Specifically the Lawfulness of Processing should be tested and documented.

- i) Subject has given consent to the processing;
- ii) Processing is necessary for the performance of a contract;
- iii) Processing is necessary to comply with a legal obligation;
- iv) Processing is necessary to protect the vital interests (life or death) of the subject or other person;
- v) Processing is necessary for the performance of a task in the public interest or with official Authority;
- vi) Processing is for legitimate interests of the Controller.

- (d) The DPA sets out a number of Rights of Individuals who are the subject of any personal data ("Data subjects"). For example, a right of access to the information held about them by a data controller ("Subject access").
- (e) One of the most important aspects of the DPA is that it imposes strict controls in relation to the disclosure of personal data to third parties.

3.0 Implications for Elected Members

- 3.1 Although elected members will not be "data controllers" in respect of data held for the purposes of Council business, personal information which is protected by the provisions of the DPA may come into their possession in the course of their duties as councillors. The following guidance is offered in this regard:

3.1.1 Am I entitled to see personal data held by the Council?

Council officers **may** release the information to you, as "elected members" are specified in the Council's registration details (see paragraph 2.3(b) above) as a class of persons to whom personal information will be disclosed.

Before releasing any information to you, however, the officer dealing with your request will ask you the purpose for which the information is required and assure themselves that the use of the information is legitimate in terms of assisting you with your committee, portfolio or constituency role as a Councillor.

If the information is not essential to enable you to carry out your duties and the person who is the data subject has not given their consent for the information to be disclosed to you, you will not be allowed access to the information in question.

There are some situations where obtaining a person's information without consent may be possible. This would be tested on a case by case basis.

3.1.2 If I am given access to personal data, can I disclose it to any other person?

You may disclose the information to the individual to whom it relates to. However, this is provided that it does not contain personal data from which any third party can be identified directly or indirectly, if that third party has not consented to the disclosure.

It is important to remember that personal data relating to an individual must not be disclosed by you to any other person without the consent of the individual concerned. This would be considered an unlawful disclosure.

Members must not forward council emails containing personal data to other email accounts, including both personal email accounts or third party email accounts without understanding who has access to those email accounts, for what purpose the email is being sent and whether consent is required.

3.1.3 When in the Council Offices

The Council has recently updated the office environment of the Council offices and now, many more staff are located on large open plan offices.

Members may from time to time have cause to speak to officers who are at their desks. Members may inadvertently have access to several strands of information including but not limited to;

- Information on computer screens
- Information from officers discussing an on-going live case
- Information relating to a person that may be personal or special category information

Members must avoid looking at Officers' computer screens and must not use or repeat information they have inadvertently heard during the course of their legitimate visit to the offices.

3.1.4 What are the consequences of unlawful disclosure?

If you do disclose such information to a third party without consent, there are three possible consequences:

- (a) You may have compromised an individual's privacy, causing damage or distress. This may result in a personal claim against you or the council. In some cases this has previously resulted in loss of life for a data subject as a result of an information breach;
- (b) You may have committed an offence under the Data Protection Act for which you may be prosecuted in either the Magistrates' Court or the Crown Court. Upon conviction in the Magistrates' Court, you would be liable to a fine of up to £5,000. In the Crown Court, the maximum penalty is an unlimited fine;
- (c) You would be in breach of the Code of Conduct for Members of the Council, which states that a member "must not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so". Any member acting in breach of the

Code of Conduct may be the subject of a report to a panel of the Audit and Governance Committee.

4.0 Members as Data Controllers

- 4.1 As previously mentioned, elected members will not be “data controllers” in respect of data held for the purposes of **Council business**. It will invariably be Council officers who control the processing of data held for such purposes.

Any proposed use of the data by members, other than that detailed when requesting information, must be cleared with the relevant Council officer.

Members can of course access personal data with the consent of the data subject e.g. when acting on behalf of a citizen in their ward.

- 4.2 It may, however, be the case that members maintain their own computerised records containing personal data (e.g. address lists) for their own use. If the data is held for personal, family or household purposes, there is no requirement for a member to register themselves as a data controller with the Information Commissioner’s Office (ICO).
- 4.3 However, if the data is held or used for the purpose of constituency casework or for canvassing political support amongst the electorate, formal notification must be made to the Office of the Information Commissioner under the provisions of the Data Protection Act.
- 4.4 When you are campaigning for election or otherwise acting on behalf of a political party you should be covered by the notification of the Party to whom you belong, but check with your constituency Chairperson or Secretary.

Any Member who considers that they may be affected in this way should seek further advice from:-

Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545745
e-mail: data@dataprotection.gov.uk

5.0 Enquiries from Constituents

- 5.1 It is, of course, the case that individuals may make their own request under the Data Protection Act for disclosure of personal information held on them by the Council. If you are approached by a constituent who merely wants sight of such information, you should advise them to make a request for this in writing, to:-

The Data Protection Officer
Boston Borough Council
Municipal Buildings
West Street
Boston
PE21 8QR

6.0 Responsibilities to Report

- 6.1 A personal data breach may, if not addressed in an appropriate and timely manner, result in physical, material or non-material damage to natural persons such as loss of control over their personal data or limitation of their rights, discrimination, identity theft or fraud, financial loss, damage to reputation, loss of confidentiality of personal data protected by professional secrecy or any other significant economic or social disadvantage to the natural person concerned.
- 6.2 It is every elected member's responsibility to take privacy of personal information seriously. The potential for an unlawful disclosure, and personal data breach must be reported as soon as possible to the **Councils Data Protection Officer** to comply with the statutory obligation to inform the ICO within 72 hours.
- 6.3 A "personal data breach" is when information may have processed by persons not expressly permitted to have access to that information.
- 6.4 Examples include:
- a) A misdirected email;
 - b) A letter sent to the wrong address;
 - c) Loss of a PC/tablet/mobile phone containing personal data;
 - d) Notes of meetings lost;
 - e) Overheard conversations regarding subjects.
- 6.5 Failure to notify the ICO within 72 hours would seriously affect the Council's position should the ICO make a determination against the Council.

7. Members Obligations to Understand the Requirements of this Protocol

- 7.1 The Council will provide opportunities for training and Member development through the Councillor Development Group.
- 7.2 If a Member does not understand the meaning of the requirements of this Protocol, it is their personal responsibility to raise directly with the Monitoring Officer, their Group Leader or Chairman of the Councillor Development Group to ensure the appropriate training is identified and offered.

Relevant Legislation affecting this Protocol

Legislation:
The Data Protection Bill 2018
The General Data Protection Regulations (EU) 2016/679
The 'Law Enforcement Directive' - EU Data Protection Directive 2016/680
Department for Digital, Culture, Media and Sport - Data Protection Bill (2018)
The Data Protection Act 1998
Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002

The Council's Monitoring Officer may update this protocol from time to time following developments in guidance from the Information Commissioner's Office, case law and any changes to legislation.

Protocol prepared on the 15/3/2018.

This page is intentionally left blank

PART 5 (SECTION I)



Grievance Policy

Version History

Version	Author	Reason For Issue
October 2008		Revision agreed at JCC
July 2014	People Services	Policy review
August 2018	People Services	Fundamental review of policy

Document Distribution

Title	Role
CMT	
Unison	Consultation and support
GMB	Consultation and support

Document References

Reference	Document Title

Policy statement

It is the policy of the Council that all grievances raised by employees are dealt with in a fair and effective manner and at the appropriate level bearing in mind the nature of the complaint. In particular, any form of harassment, discrimination, bullying or victimisation is unacceptable.

Objectives

This policy enables employees to raise problems or concerns that they may have about work or their working environment, including 'Dignity at Work' issues.

This policy aims to ensure that:

- lawful, non discriminatory and effective arrangements exist for dealing with employee concerns and grievances;
- all employees are aware of their responsibilities regarding raising problems and concerns and will not suffer detriment for doing so as long as the complaint is not malicious; and
- managers are aware of and supported in carrying out responsibilities for the resolving of issues as soon as possible .

Raising a grievance

Unless there are exceptional circumstances the grievance must be raised within three months of the incident or action giving rise to it. Any grievance raised outside of that time limit may not be considered.

Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). If an ex-employee wishes to raise a grievance they must indicate in writing that this is the case. Criticisms of individuals or of the Council through, for example an exit questionnaire or interview will not be considered as a formal grievance for the purposes of this policy. There is no automatic right to a meeting in respect of a grievance by a person who raised a grievance as an ex-employee and any response to that grievance may be in writing only.

Some matters relating to employment do not fall within the scope of this policy and are dealt with under separate arrangements. These include:

- Disciplinary outcomes (refer to the Disciplinary Policy);
- Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice (refer to Whistleblowing Policy);
- Applications for grading, re-grading and appeals (refer to Job Evaluation Policy);
- Payroll matters affecting Income Tax, National Insurance, Pension etc (please refer by direct contact with the relevant provider concerned e.g. HMRC).

Grievances raised by employees against Members will either be dealt with under this policy or through the Dignity at Work Policy but will be managed by the Monitoring Officer or their nominated deputy. The decision over which policy will be used will depend on the subject matter in each individual case.

Grievance procedures

Every effort should be made to resolve grievances through an informal process.

Informal Stage

Where an employee has a complaint or issue arising from their employment, they may use the form at Appendix 1: Grievance and Dignity at Work Form. They should initially raise the matter with their immediate supervisor. The immediate supervisor should arrange to meet with the employee to discuss the matter and the supervisor should take notes and agree these with the employee. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome.

If the grievance relates to an employee's supervisor, the employee should raise the matter with the supervisor's line manager, who will seek to resolve the matter

informally. Before the meeting the manager may need to gather facts in order to resolve the matter.

As the matter is informal any meetings will involve the employee and manager only.

All issues should attempt to be first resolved at the informal stage, but if an employee goes to the formal stage, then consideration may be given by the manager hearing the matter for this to go back to the informal stage first.

The manager should confirm in writing to the employee the outcome of the informal stage.

This letter should also advise the employee that if they feel the matter has not been resolved satisfactorily via the informal stage they can proceed to the formal stage by writing to their Manager's Manager within 10 days of receiving the letter.

Formal Stage

Any complaint should be in writing and Appendix 1: Grievance and Dignity at Work Form is for that purpose. It is not necessary for the employee to only use this form to raise a grievance. The form, letter or email setting out the grievance, the actions taken so far and what outcome is required to satisfactorily resolve the issue, should be given to the line manager who will forward it onto the next level of management.

That level of management will arrange a meeting to seek to resolve the matter with the complainant. Any meeting arranged must give a minimum of 5 working days notice and the employee will have the right to be accompanied by a recognised trade union representative or Boston Borough Council work colleague of their choice. The manager hearing the grievance will be accompanied by a representative from People Services. The supervisor or manager who has met with the employee to resolve the matter at the informal stage will also attend, with their notes of the previous informal meeting.

As this is a formal meeting, the process to be followed at that meeting can be found at Appendix 2: Guidance on Conducting a Formal Meeting. However the manager hearing the matter may determine a process that best meets the needs of the circumstances to resolve the matter.

The manager hearing the matter and employee will seek to resolve the grievance at this meeting. Possible outcomes may be:

1. Manager moves the matter back to the informal stage – the manager hearing the matter will notify the employee and their manager of the outcome within 5 working days of the meeting. The manager will keep notes of the meeting and outcome.

If the employee raising the grievance is dissatisfied with the outcome they can appeal (see Appeal Stage).

2. Manager upholds or rejects the grievance - the manager hearing the matter will notify the employee and their manager of the outcome within 5 working days of the meeting. The manager will keep notes of the meeting and outcome.

If the employee raising the grievance is dissatisfied with the outcome they can appeal.

3. Initiate an investigation – after hearing the full nature of the grievance the manager hearing the matter may decide that it needs to be investigated. They will inform the employee of this within 5 working days of the initial meeting and arrange for an officer not connected with the case to carry out the investigation. This officer will investigate the matter, produce a written report and deliver this to the manager hearing the grievance.

The report will look into the facts surrounding the grievance and the investigator will interview all relevant parties involved before writing the report. This is a fact gathering exercise. The investigator will not make conclusions or recommendations for action as this is for the manager hearing the matter to decide. The investigator will not normally need to be present at the subsequent meeting.

The manager will recall the meeting, using the template Letter 4. Where appropriate, a written report will be made available to the employee and manager who heard the matter at the informal stage, prior to the meeting, at the same time. The manager hearing the grievance will then seek to resolve the matter at this meeting, notifying both parties at the same time.

After seeing the report and meeting with both parties the manager hearing the matter may resolve to consider mediation (see below).

4. Mediation – the manager hearing the matter may decide to initiate mediation. This may be after a report has been prepared or may be a resolution in its own right.

Mediation can only take place if all parties are in agreement. People Services will make arrangements for the mediation to take place and this outcome is notified to all employees involved in the mediation in writing.

The outcome of any mediation is confidential between the parties concerned and the manager hearing the grievance will only be notified of whether agreement has been reached or not.

Mediation seeks agreement by both parties to act in a manner that is acceptable so there is no appeal against this outcome so long as the mediator confirms that agreement has been reached.

If there is no agreement between the two parties at mediation, the mediator will confirm this to the manager hearing the matter who will take this into account when coming to a decision. If dissatisfied with this decision the employee raising the grievance can appeal.

The Council maintains a list of appropriately trained and qualified mediators.

5. Appeal Stage. If an employee is dissatisfied with the response from the manager or the mediation has not secured agreement, they may appeal to the Head of Service of the relevant area. This must be in writing and within 10 working days of receipt of the outcome of the meeting or confirmation from the mediator that mediation has not secured agreement. Where the Head of Service has already been involved in the matter this should be appealed to the relevant director.

A grievance appeal must be heard by at least a Head of Service or above not previously involved in the matter. The manager hearing the appeal does not need to be from the same Service area as the employee raising the grievance, although they may be.

In attendance at the appeal hearing will be the manager hearing the appeal, the employee, their representative, the manager who heard the matter at the formal stage and a representative from People Services. All of the manager's notes of the previous meeting, reports and outcome letters will be provided to the manager hearing the appeal prior to the meeting.

The decision of the manager hearing the appeal is final and the outcome will be notified to the employee and their manager within 5 working days of the meeting.

Record Keeping

Notes of the outcome and discussions will be kept securely on employee's personal files. People Services will retain papers on any formal grievance or appeal for a period of 6 months.

This page is intentionally left blank



EXECUTIVE / SCRUTINY PROTOCOL



Boston - A Great Past and a Bright Future

Protocol on Cabinet – Overview and Scrutiny Relations

1. Introduction

- 1.1 The aim of the protocol is not intended to change the respective constitutional positions, roles or responsibilities of either the Cabinet or the Overview and Scrutiny Committee.
- 1.2 It is to clarify relationships between the two and help ensure the smooth conduct of overview and scrutiny business and encourage effective communication between overview and scrutiny and the Cabinet.
- 1.3 This Protocol applies to all Members of the Overview and Scrutiny Committee, any Member who may sit on a Scrutiny Task and Finish Group, Working Group or Inquiry Session and all Members of the Executive (comprising the Leader and the various Cabinet Members).
- 1.4 It provides guidance on the way in which both types of Members interact to enable the Authority to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on role of officers who support this process.
- 1.5 The key responsibilities of overview and scrutiny at the Council are to:
 - Hold the Cabinet and Corporate Management Team to account for their decisions;
 - Review Council policy, the way policies are implemented and their impact on local people;
 - Scrutinise decisions before they are made and before they are implemented; and
 - Contribute to the development of policy by investigating issues of local concern and making recommendations to the Cabinet (and Council's partners).

2. Objectives

- 2.1 To enable Overview and Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Overview and Scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable scrutiny to work effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy in the interrelationships between Scrutiny Members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.

- 2.4 To create a culture of holding the Executive to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.
- 2.5 To define and clarify the role of the Executive as an integral component of the scrutiny process.

3. Holding the Executive to Account

- 3.1 One of the underpinning principles of Overview and Scrutiny is the ability of non-Executive Members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.
- 3.2 To facilitate this approach, the Overview and Scrutiny Committee may challenge the Executive about decisions, which it has taken collectively, or Officer Key Decisions. The Overview and Scrutiny Committee may also consider any relevant performance information in respect of the delivery of services. In addition, the Committee may query or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.
- 3.3 The Executive will be required to consider any recommendations or views expressed by the Overview and Scrutiny Committee and to take such action it sees fit. The Chairman or Vice-Chairman, or if unavailable, a representative of the Overview and Scrutiny Committee shall attend the Cabinet meeting to present the report and/or recommendations. Where any decision taken by the Executive is not in accordance with advice provided by the Committee, the relevant Cabinet Member, or if unavailable an Executive Member Colleague, shall attend the following meeting of the committee to provide an explanation of the reasons for that decision to the Committee.

4. Powers of the Overview and Scrutiny Committee

- 4.1 Section 3 of Part 3 (Responsibility for Functions) of the Council's Constitution, sets out the relevant powers of the Overview and Scrutiny Committee, which include:-
 - The power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of Executive functions;
 - The power to make reports or recommendations to the Executive with respect to the discharge of any Executive functions;
 - The power to assist the Council and the Executive in the development of the policy framework and budget, subject to the limitations set out in the Budget and Policy Framework Procedure Rules; and
 - The power to require Members of the Executive to attend before it to answer questions.

5. Overview and Scrutiny Committee Agendas

- 5.1 The agenda of the Overview and Scrutiny Committee meeting will include an item on the Committee's Work Plan to enable the Committee's priorities for scrutiny for the remainder of the Municipal Year to be included and prioritised.
- 5.2 The Cabinet Member may be invited to comment on the Committee's proposed priorities within the Work Plan to inform the selection process and to undertake a co-ordinating role by providing advice to the Committee about any potential conflict between proposed scrutiny topics and areas of planned policy development.
- 5.3 The Cabinet Member may also advise the Committee about instances where it may be requested by the Executive to assist in policy development. Members may at any time propose items for inclusion in the Committee's Work Plan. Such topics may include not only Council Services, but also any relevant item, which affects the Borough or its residents.
- 5.4 The agendas of the Overview and Scrutiny Committee will include quarterly performance monitoring information at relevant times during the municipal year. The purpose of this item is to assist Members to monitor the recent performance of services within its remit against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness.

6. Attendance by Executive Members at Overview and Scrutiny Committee (including 'Call-In' meetings)

- 6.1 Cabinet Members will normally be expected to attend meetings of the Overview and Scrutiny Committee, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions.
- 6.2 Cabinet Members are encouraged to avail themselves of every opportunity to gauge the views of non-Executive Members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Member and Scrutiny Members, where consideration is being given to the development of the Council's budget or policy framework.
- 6.3 Cabinet Members will normally be expected to attend any meeting of the Overview and Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her area of responsibility.
- 6.4 At Call-In meetings, the purpose of the Cabinet Member's attendance is to answer questions of fact and not to present the item. Cabinet Members need to be careful not to be drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions which may bring them into conflict with the Code of Conduct. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the Committee debate into the issue in question.

- 6.5 Unless there are extenuating circumstances, the relevant Cabinet Member should always attend a Call-In meeting. It is accepted however that Officers are often better placed to present greater detailed information that led up to the decision and this is deemed to be acceptable although it should always be the decision maker that is held to account.
- 6.6 The following procedure should take place at Call-In meetings:
- The Members who called in the decision should speak first.
 - The Chairman would then invite the Cabinet Member (decision maker) to respond.
 - The Committee can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
 - The Committee debates the issue and votes on the outcome.
- 6.7 In the event of a situation where the relevant Cabinet Member cannot attend a Call-In meeting, the Leader of the Council or Deputy Leader should attend in their absence. In the event of both the Leader and Deputy Leader being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

7. Ethos of the Meeting

- 7.1 All Members should promote an atmosphere of openness at Overview and Scrutiny Committee meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Scrutiny Committee Members, the Cabinet Member and other participants.
- 7.2 Overview and Scrutiny Committee Members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. It should however be stated that Scrutiny Committee Members should be aware of and show an understanding of the fact that Cabinet Members may not be in a position to answer every question immediately or in detail.
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of Scrutiny Committee Members who raise questions under these headings and respond in an appropriate and professional manner.
- 7.4 Cabinet Members should normally be authorised by the Committee to speak upon any item on the agenda which falls into their portfolio area of responsibility and may at any time offer to assist the Overview and Scrutiny Committee by the provision of factual information or advice in relation to the matters under discussion.
- 7.5 The Chairman of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.

- 7.6 The Chairman, supported by the officers, should provide leadership and guidance to the Committee on all scrutiny matters and should promote the Committee's role to improve services and monitor the effectiveness of Council policies.

8. Supporting Overview and Scrutiny Reviews

- 8.1 These are reports with recommendation that have resulted from the work of a Task and Finish Group, Working Group or Inquiry Session who will have spent time considering background information, witness evidence, and formulating their recommendations.
- 8.2 The Chairman or Vice-Chairman of the Overview and Scrutiny Committee will be invited to present the final report at a Cabinet meeting.

The Cabinet can expect a report that:

- Has clear, concise recommendations;
 - Identifies potential areas for improvement; and
 - Highlights implications including financial, legal, equality, policy, of the recommendations and where possible identify solutions as appropriate.
- 8.3 The relevant Portfolio Holder(s) can assist the review in a number of ways including:
- At the outset of the review, when the Task and Finish Group is considering the scope, methodology and witnesses to give evidence;
 - During the review when the Portfolio Holder can be invited to give evidence;
 - At the end of the review after the Task and Finish Group has produced the first draft of the report.
- 8.4 During the review period the Chairman of the Task and Finish Group is recommended to meet with the Portfolio Holder and Officers:
- To discuss the proposed scope, methodology and sources of evidence for the review and ascertain if the Portfolio Holder has any suggestions to make;
 - To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage, or identify if any further work needs to be done by the Task and Finish Group.

- 8.5 Although this dialogue is encouraged, it is recognised that the Overview and Scrutiny Committee and its Task and Finish Groups are independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in a draft report.
- 8.6 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of an internal review, the Chairman of the Task and Finish Group will notify the relevant Head of Service who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses.
- 8.7 The Head of Service will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the Task and Finish Group.
- 8.8 The responsibility for the implementation of scrutiny recommendations that have been approved by the Executive will rest with the relevant Head of Service who will also be responsible for providing regular updates on progress to the Overview and Scrutiny Committee.
- 8.9 A completed scrutiny report, together with any comments provided by Officers will be forwarded to the Executive who will consider whether or not to implement the recommendations contained within the report.
- 8.10 If the content of a report, including any recommendations, is likely to impact on any external organisation, the Executive will have the opportunity to pass comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

9. Attendance by Officers at the Overview and Scrutiny Committee and Task and Finish Group meetings

- 9.1 Meetings of the Overview and Scrutiny Committee will be attended by the assigned Lead Officer and Heads of Service or Service Managers with responsibility for any agenda item under discussion. The role of the Lead Officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.
- 9.2 The attendance of other relevant officers at the Overview and Scrutiny Committee, Task and Finish Group or Working Group meetings, or Inquiry Sessions will be at the request of the Chairman, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below the level of Service Manager.
- 9.3 An officer in receipt of a request to attend the Overview and Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date he/she should notify the Chairman or Lead Officer as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.

- 9.4 Officers in attendance at the Overview and Scrutiny Committee meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 9.5 Relevant Officers will normally be expected to attend any meeting of the Overview and Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her service area.



Part 6

Scheme for Payment of Members' Allowances

Revised May 2025

Boston Borough Council

Scheme for Payment of Members' Allowances

The Boston Borough Council, in exercise of its powers conferred by the Local Authorities (Members' Allowances) Regulations, 2003, hereby make the following Scheme which shall be cited as the Boston Borough Council Members' Allowances Scheme.

1. Citation

This scheme may be cited as Boston Borough Council Members' Allowances Scheme and shall have effect from 1 April 2025 to 31 March 2028.

Interpretation

In this scheme;

“Councillor” means a Member of Boston Borough Council

“year” means the 12 months ending with 31 March.

2. Basic Allowance

- (a) A Basic Allowance in the sum of £7,000 shall be payable in respect of the financial year 2025-26 to each Member of the Authority.

This allowance shall be paid on a pro-rata monthly basis.

- (c) If the term of office or duties undertaken by a Councillor begin or end part way through a Municipal Year, or amendment to the scheme during a Municipal Year changes the amount to which a Councillor is entitled, then calculation of the allowance payable shall be on a pro-rata basis having regard to the proportion that the term of office, period of duty or relevant periods of the scheme bear to the Municipal Year in which they occur.
- (d) This allowance is subject to Income Tax and National Insurance.

3. Special Responsibility Allowance

- (a) For each year a Special Responsibility Allowance shall be paid to those Members who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this Scheme.
- (b) Where a Member takes up or relinquishes any of the posts mentioned in Schedule 1, otherwise than at the beginning or end of a financial year, the entitlement to Special Responsibility Allowance shall be pro-rata to the period served in that office.

This allowance shall be paid monthly and is liable for Income Tax and National Insurance.

A maximum of two special responsibility allowances may be claimed, with the exception of the Leader and Deputy Leader who may not claim a Cabinet Members Allowance in addition to the Leader and Deputy Leader Allowance.

4. Co-optee Allowance

A co-optee's allowance in respect of the attendance of individuals co-opted onto the Audit and Governance Committee of the Council is payable at £1000. The allowance will cover attendance at such meetings and any other activity arising directly from that role (e.g. seminars, conferences, training courses, etc.). Details of this Allowance are set out in Schedule 1.

If a Co-opted Independent Member is in receipt of a Special Responsibility Allowance they will not be able to claim the co-optee £1000 allowance.

5. Annual Adjustment of Allowances

- (a) For the period 1 April 2026 to 31 March 2028 the basic, special responsibility and co-optee allowances will be linked to staff pay awards, the annual amount to be increased prior to being paid on a pro-rata monthly basis.

6. Income Tax and National Insurance

- (a) Basic Allowance, Special Responsibility and Co-optee Allowances are liable for Income Tax and National Insurance deductions.
- (b) Allowances must be treated as earned income and should be declared as such on all necessary forms.
- (c) Travel Allowances have been set at rates below the threshold for Income Tax deductions.
- (d) Members who suffer tax deductions on their allowances may be eligible to claim tax relief in respect of expenses incurred. A series of 'Agreed Expenses Allowances' are negotiated with the HMRC each year. Details are available from the Democratic Services Manager.
- (e) A Member wishing to claim tax relief should consult HMRC.

7. Dependent Carer's Allowance

- (a) Child Care

Members may claim for reimbursement of actual expenditure incurred in providing child care arrangements to facilitate their attendance at approved duties of the Council in accordance with the following restrictions:-

- That payment be made to someone other than a close relative, as defined in the Boston Member Code of Conduct;

- That payments for the care of children under the age of 8 be restricted to payments to registered child-minders and other statutorily approved child care providers;
- That payments be restricted to the care of children up to their 14th birthday who normally reside with the Member;
- That no payments be made in respect of care of children of compulsory age during school hours.

(b) Care of Dependants

Members may claim for reimbursement of actual expenditure on professional care for an elderly, sick or disabled dependant relative normally residing with the Member and requiring constant care subject to payment being restricted to agencies or persons qualified to provide the care other than close relations, as defined in the Boston Member Code of Conduct.

(c) The following conditions apply to the allowances for both Child Care and Care of Dependants:

- That payments be made on the basis of reimbursement of actual expenditure incurred, subject to the production of satisfactory receipts by a Member;
- That Members self-certify claims confirming they have incurred expenditure in accordance with the scheme;
- That qualifying meetings be restricted to a meeting of the Cabinet, a meeting of a Committee of the Cabinet, a meeting of the authority, a meeting of a Board/Committee, Sub-Committee or Panel of the authority;
- That payment be made only for the duration of the meeting for which the claim is made plus a maximum of one hour for travelling time.

7. Travel and Subsistence Expenses

- (a) Travel and subsistence expenses shall be made to Members in respect of approved duties, as specified in Schedule 2 to this Scheme.
- (b) In order to claim subsistence allowance a claimant must have personally incurred expenditure on subsistence and provide evidence of such expenditure in the form of receipts.
- (b) The amount paid will be the amount incurred and shown on the receipt up to the maximum limit set out in Schedule 4 to this scheme.
- (c) Claims for travel and subsistence expenses should be submitted promptly on the appropriate form by no later than the 4th day of the month following the month to which the claim relates.
- (d) Travel and subsistence expenses are not subject to Income Tax or National Insurance.

8. Rates of Expenses Payable

- (a) Schedule 4 sets out the current rates and conditions relating to travelling and subsistence expenses.
- (b) The Section 151 Officer shall have delegated authority within the Scheme to increase travel and subsistence expenses in line with the limits prescribed by the Secretary of State, or HMRC.

9. Disability Discrimination Act

The Council acknowledges its obligations under the Disability Discrimination Act and will make reasonable adjustments to accommodate Elected Members with disabilities to enable them to carry out their duties effectively.

11. Method of Payment

Payment of Members' Allowances shall be made by Credit Transfer to a bank account specified by the Member. Payment will be made on 23rd of each month or nearest working day should the 23rd fall on a weekend.

12. Late Claims

Claims must be made within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out. Claims submitted out of time will require specific approval from the Section 151 Officer.

13. Financial Restrictions

Any payment under the Scheme is conditional on the aggregate of the amount which the authority has paid out or is already liable to pay out under the Scheme not exceeding the budget provision.

14. Withholding Allowances

Where a member is a member of another local authority he/she may not receive an allowance from more than one authority in respect of the same duties.

Members will continue to receive allowances if suspended pending an investigation, but will be required to repay them from the date of suspension where the alleged offence is subsequently proven.

Payments will be withheld during any periods of suspension following a proven case or when a Member ceases to be a Member or is in any other way not entitled to receive allowances.

15. Renunciation

Any Member may by notice in writing given to the Chief Executive elect to forgo any part of his/her entitlement to an allowance under this Scheme.

Schedule 1

The following are specified as the special responsibilities in respect of which Special Responsibility Allowances are payable and the amounts of those allowances payable in respect of a full financial year:-

Responsibility	Amount
• Leader of the Council	£25,000
• Deputy Leader of the Council (including Cabinet Portfolio)	£12,500
• Cabinet Members	£10,000
• Chairmen of Overview & Scrutiny Committees	£5,000
• Vice-Chairmen of Overview & Scrutiny Committees	£2,500
• Chairman of Audit & Governance Committee	£8,000
• Vice-Chairman of Audit & Governance Committee	£4,000
• Chairman of Planning Committee	£8,000
• Vice-Chairman of Planning Committee	£4,000
• Planning Committee Member	£759
• Chairman, Licensing/Regulatory & Appeals Committee	£5,000
• Vice-Chairman, Licensing/Regulatory & Appeals Committee	£2,500
• Licensing Hearing (per member per hearing)	£63
• Chairman of the Boston Town Area Committee	£5,000
• Vice-Chairman of the Boston Town Area Committee	£2,500
• The Mayor	£8,000
• Deputy Mayor	£4,000
• Opposition Group Leaders (per member exc Group leader)	£127
• Co-opted Independent Member	£1,000

Schedule 2

The following are approved duties for which Members may, if they wish, claim travelling and subsistence expenses:

1. The attendance by a Councillor at meetings of the Council, and Cabinet, Boards, Committees, Panels, Sub-Committees or Working Groups to which they have been formally appointed by the Council, or where they are acting as substitutes.
2. The attendance by a Councillor at a site visit organised by the Cabinet, or Board, Committee, Panel, Sub Committee or Working Group to which they have been formally appointed by the Council.
3. The attendance of a specified delegation of Councillors at consultation meetings for the purpose of, or in connection with, the discharge of the Council's functions.
4. The attendance of a Member of the Cabinet or a Chairman of a Board, Committee, Panel, Sub Committee or Working Group, or, in his/her absence his/her Vice-Chairman at any meeting of another Board, Committee, Panel, Sub-Committee, or Working Group of the Council pursuant to a resolution specifically requesting him/her to attend.
5. Duties which are undertaken in connection with being a Cabinet Member or Chairman/Vice-Chairman of Boards/Committees/Panels such as briefing meetings, opening of tenders, press conferences and meetings with officers, government departments and community groups.
6. The attendance by a Councillor at an approved conference, seminar, presentation, or workshop.
7. The attendance of a Councillor at a meeting of any organisation to which that Councillor has been appointed as a representative by the Council (see schedule 3), provided no allowance is paid by the body concerned and the meeting is scheduled outside the Councillor's ward.
8. Attendance by the Mayor and Deputy Mayor at Mayoral engagements, including events hosted by other civic heads within Lincolnshire, but excluding charity events. Attendance at events hosted by Civic Heads outside of Lincolnshire is not an approved duty unless they are of significant importance or benefit, to be agreed by the Chief Executive or Monitoring Officer.

Non-Approved Duties

For the avoidance of doubt, the attendance by a Councillor at any of the following are not approved duties:-

1. Civic and social events (excluding civic Council meetings i.e. AGM)
2. Meetings of the Cabinet, Boards, Committees, Panels, Sub Committees or Working Groups of the Council to which they are not formally appointed, unless acting as a substitute for another Member.
3. Meetings of and with Parish Councils.

Schedule 3

Approved Appointments and Nominations to External Organisations

Outside Bodies:-

Bicker Trust
Black Sluice Internal Drainage Board
Boston Citizens Advice Bureau Management Committee
Boston Grammar School Foundation Governors
Boston in Bloom
Boston Municipal Non-Educational Charities
Boston Woods Trust
Centrepont Outreach
East Lincolnshire Community Safety Partnership
East Midlands Councils
Greater Lincolnshire LEP
Heritage Lincolnshire
John Butler Charity
Lincolnshire County Council Health Scrutiny Committee
Lincolnshire Police and Crime Panel
Local Government Association Coastal Special Interest Group
Local Government Association General Assembly
Nacro Services in Lincolnshire
Parking and Traffic Regulations Outside London (PATROL)
Public Sector Partnership Services Ltd
Rural Services Network (SPARSE Rural, Rural Services Partnership, RSN Community Group)
Sir Thomas Meddlecott and Others Charity Trust (Skirbeck Quarter Charities)
South and East Lincolnshire Councils Partnership Healthy Living Board
St. Leonard's Hospital Trust
Swineshead Enhancement Society
Swineshead Poor Charity
Thomas Sanderson Trust
W H and E Harlock Swineshead Almshouses Charity
Wash and North Norfolk Coast Special Area of Conservation (SAC) Members Group
Welland and Deepings Internal Drainage Board
Witham Fourth District Internal Drainage Board

Schedule 4

Travelling and Subsistence Expenses

Travelling Allowances

1. Public Transport

Travel by bus, rail and taxi will be at the standard fare rate.

In certain circumstances, where advance booking and use of appropriate rail discount cards may result in fares for first class travel which are equal to or lower than the standard class fare, then travel in first class will be permitted.

Members must make travel arrangements through the Democratic Services Team of the Council (except on grounds of urgency).

Where Members have made their own arrangements for travel they may reclaim the actual costs incurred (subject to the above limits and production of valid receipt for expenditure).

2. Motor Mileage Allowances - Private Vehicles

The mileage rates for Members will reflect HMRC mileage payment guidelines, currently the following rates apply:-

Mode of Transport	First 10,000 business miles in the tax year	Each business mile over 10,000 in the tax year
Cars and vans	45p	25p
Passenger (for carrying fellow Members in a car or van on journeys which are also work journeys for them).	5p	5p
Motor Cycles	24p	24p
Bicycles	20p	20p

Members claiming mileage for travel to approved Council duties are responsible for ensuring that the vehicle they are using for Council business purposes is taxed and appropriately insured and will be required to provide confirmation of insurance cover to the Monitoring Officer on request.

Subsistence Expenses

3. Day Subsistence

The meal allowances rates for Members will reflect HMRC subsistence payment guidelines, currently the following rates apply:-

Allowance	Valid Claim Period	Maximum Amount
Breakfast	When departing from home before 7 00 am and not returning before 11.00 am	£7.50
Lunch	When leaving home or place of work before 11 am and arriving back at their home or place of work after 3.00 pm	£10.00
Dinner	When leaving home before 5.00 pm and not returning until after 8.00 pm	£20.00

Meal allowances will only be paid when it is necessary for the Member to be absent from home during the specified periods due to Council business and where it would not be possible to take the meal at home.

The Authority will only pay the actual cost incurred for each meal. The maximum should only be claimed when the meal has cost that amount or more.

Expenses will not be paid where a suitable meal is provided during the course of the official duties or where the Member could have arranged their day to avoid incurring the expenses.

Gratuities for service are paid at the discretion of the Member and except where specifically included on a bill as a service charge are not reclaimable from the authority.

Any claim for reimbursement that is submitted without a valid receipt will not be paid.

4. Overnight Accommodation

Where a substantial journey has to be undertaken, e.g. to London or Aberdeen, Members are permitted to leave the previous day if they would otherwise have to leave home before 7 a.m. They may return the following day if they would otherwise arrive home after 10.00 p.m.

Hotel and other accommodation **must** be booked in advance by the Democratic Services Team to enable the Council to secure such discounts which may be available to it.

PART 7

MANAGEMENT STRUCTURE

Please note that the organisation chart, detailing the Council's management structure, is currently unavailable following the agreement to enter into [the South and East Lincolnshire Councils Partnership](#)

The partnership is working to establish a new, shared management structure and the Council will publish a new chart once this is agreed.

This page is intentionally left blank

Part 9 – Membership of Committees

Revised May 2025



Boston Borough Council

Allocation of Seats to Political Groups and Appointments to Committees / Panels (including Substitutes) 2025/26

* Overview and Scrutiny (15)

	Boston Ind (8)	Cons (3)	Ind 20/20 (4)	Nonaligned (0)
1	Drayton	Rylott	A Austin	
2	Izard	Evans	Gilbert	
3	Marson	Dani	Gleeson	
4	Middleton		Pryke	
5	Savickiene			
6	Scoot			
7	Staples			
8	Welberry			

* Audit & Governance Committee (11)

	Boston Ind (6)	Cons (2)	Ind 20/20 (3)	Nonaligned (0)
1	Izard	Cantwell	R Austin	
2	Middleton	Dani	Gilbert	
3	Pierpoint		Pryke	
4	Savickiene			
5	Staples			
6	Welberry			

Substitutes (Maximum of 1)				
1	Scoot	Evans	Woodliffe	

Non-Voting Co-opted Independent Members: Mr Adam Cartwright and Mr Gideon Hall

*** Standards Sub Committee (5)**

(Meets as required)

Drawn from Membership of the Audit and Governance Committee)

	Boston Ind (3)	Cons (1)	Ind 20/20 (1)	Nonaligned (0)
1	Middleton	Dani	Gilbert	
2	Pierpoint			
3	Staples			

*** Licensing Committee / Regulatory & Appeals Committee (13)**

	Boston Ind (7)	Cons (2)	Ind 20/20 (3)	Nonaligned (1)
1	Baxter	Cantwell	R Austin	Noble
2	Drayton	Evans	Gleeson	
3	Dorrian		Woodliffe	
4	Mountain			
5	Savickiene			
6	Staples			
7	Welberry			

*** Planning Committee (13)**

	Boston Ind (8)	Cons (2)	Ind 20/20 (3)	Nonaligned (0)
1	Broughton	Evans	A Austin	
2	Dorrian	Rylott	Bedford	
3	Middleton		Woodliffe	
4	Pierpoint			
5	Savickiene			
6	Scot			
7	Sharpe			
8	Welberry			

Substitutes

(Maximum of 2)

1	Staples	Dani	R Austin	
2	Izard	Cantwell	Gleeson	

*** South East Lincolnshire Joint Strategic Planning Committee (3)**
(3 and 3 substitutes)

	Boston Ind (2)	Cons (0)	Ind 20/20 (1)	Nonaligned (0)
1	Middleton		Bedford	
2	Scot			

Named Subs				
1	Dorrian		A Austin	
2	Mountain			

*** Chief Officer Employment Panel (3)**
(Meets as required)

	Boston Ind (2)	Cons (0)	Ind 20/20 (1)	Nonaligned (0)
1	Broughton		Gleeson	
2	Dorrian			

Named Subs				
1	Ghosh		Pryke	
2	Sharpe			

*** Chief Officer Employment Appeals Panel (3)**
(Meets as required)

	Boston Ind (2)	Cons (1)	Ind 20/20 (0)	Nonaligned (0)
1	Butler	Cantwell		
2	Baxter			

Named Subs				
1	Cresswell	Dani		
2	Mountain			

*** International Links Committee**

(ad hoc Chairman and Vice-Chairman to be appointed at first meeting of Group)

	Boston Ind (3)	Cons (1)	Ind 20/20 (1)	Nonaligned (0)
1	Savickiene	Dani	Gleeson	
2	Marson			
3	Scot			

Boston Town Area Committee (BTAC)

(Membership is all town ward Members ex officio.

Chairman and Vice-Chairman appointed at first meeting of the Committee)

	Boston Ind	Cons	Ind 20/20	Nonaligned
1	Cresswell	Dani	A Austin	Noble
2	Dorrian		Gilbert	
3	Drayton		Gleeson	
4	Ghosh		Woodliffe	
5	Izard			
6	Marson			
7	Pierpoint			
8	Savickiene			

Councillor Development Working Group (10)

(Meets Quarterly

Chairman and Vice-Chairman to be appointed at first meeting of Group)

	Boston Ind (6)	Cons (2)	Ind 20/20 (2)	Nonaligned (0)
1	Baxter	Evans	A Austin	
2	Broughton	Rylott	Pryke	
3	Drayton			
4	Mountain			
5	Savickiene			
6	Staples			

* Asterisk indicates that the political balance rules apply

No asterisk indicates political balance not required, numbers stated are suggested allocations

Part 10 – Programme of Meetings

Revised May 2025



BOSTON BOROUGH COUNCIL - CALENDAR OF MEETINGS 2025/26

COMMITTEE & Usual Day	MEETING DATE												
	2025								2026				
	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY
CABINET Weds 6.30 pm	7		9		17	22		10	27	18 (E)	25		5
COUNCIL Mon 6.30 pm	19 AM		21		29		10		12		2 (B/CT)		18 AM
PLANNING COMMITTEE Tues 10.00 am	6	3	1 & 28		9	7	4	2	13	24	24	27	
AUDIT & GOVERNANCE Mon 6.30 pm			7			13	17		19			21	
OVERVIEW & SCRUTINY Tues/Thurs 6.30 p.m	8 & 29	17	17		4	2	6	9	15 (BS)	10	17	30	
LICENSING COMMITTEE / REGULATORY & APPEALS COMMITTEE Tues 2.00 p.m		10			23			16		3		28	
BOSTON TOWN AREA COMMITTEE (BTAC) Thurs 6.30 p.m		5	24		25		27		22		26		

Key to Symbols:

AM = Annual Meeting
E = Draft Estimates for 2026-27
B = Budget setting for 2026-27
CT = Council Tax setting 2026-27

Bank & Public Holidays

2025 – 5 May, 26 May, 25 Aug, 25 Dec, 26 Dec
2026 – 1 Jan, 3 Apr, 6 Apr, 4 May, 25 May

Notable Dates

County Elections – 1 May 25

Key to Venues

All meetings take place at the Municipal Buildings, West Street, Boston Lincolnshire PE21 8QR unless stated otherwise on agenda TBC

Please refer to published agenda for confirmation of meeting arrangements

Please take notice that there are likely to be items at the aforementioned meetings that will be taken in private session. The most common reasons for the press and public being excluded are: information relating to any individual, information which is likely to reveal the identity of an individual and information relating to the financial or business affairs of any particular person (including the authority holding that information).

This page is intentionally left blank