

RYEDALE
DISTRICT
COUNCIL



Constitution of the Council

Ryedale District Council

Version History

Version	Revision	Reviewer	Date
Vers 2.0	Removal of all references to role of "Corporate Director" and replaced with "Corporate Director (s151)" or "Heads of Service"	M Jackson	February 2011
Vers 2.1	Replacement of "Community Services Committee" or "Community Services & Licensing Committee" with Commissioning Board and/or Licensing Committee	M Jackson	February 2011
Vers 2.2	Merged Terms of Reference of Community Services and Commissioning Board	M Jackson	February 2011
Vers 2.2	Added Safeguarding Code of Conduct Reference to Officer Code	M Jackson	February 2011
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Version History

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Contents	Page No
<u>Part 1</u> - <u>Summary and Explanation</u>	1
<u>Part 2</u> - <u>Articles of the Constitution</u>	7
<u>Article 1</u> - <u>The Constitution</u>	9
<u>Article 2</u> - <u>Members of the Council</u>	11
<u>Article 3</u> - <u>Citizens and the Council</u>	14
<u>Article 4</u> - <u>The Full Council</u>	15
<u>Article 5</u> - <u>Chairing the Council</u>	18
<u>Article 6</u> - <u>Overview and Scrutiny Committee</u>	19
<u>Article 7</u> - <u>The Policy and Resources Committee, Commissioning Board, the Planning Committee and Licensing Committee</u>	21
<u>Article 8</u> - <u>The Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee</u>	22
<u>Article 9</u> - <u>Area Committees and Forums</u>	23
<u>Article 10</u> - <u>Joint Arrangements</u>	24
<u>Article 11</u> - <u>Officers</u>	26
<u>Article 12</u> - <u>Decision Making</u>	31
<u>Article 13</u> - <u>Finance, Contracts and Legal Matters</u>	33
<u>Article 14</u> - <u>Review and Revision of the Constitution</u>	34
<u>Article 15</u> - <u>Suspension, Interpretation and Publication of the Constitution</u>	36
<u>Schedule 1</u> - <u>Description of Alternative Arrangements</u>	38
<u>Part 3</u> - <u>Responsibility for Functions</u>	41
<u>Responsibility for Council Functions</u>	41
<u>Terms of Reference – Planning Committee</u>	43
<u>Terms of Reference – Licensing Committee</u>	45
<u>Terms of Reference – Licensing Sub-Committee</u>	47
<u>Terms of Reference – Policy and Resources Committee</u>	49
<u>Terms of Reference – Overview and Scrutiny</u>	51
<u>Terms of Reference – Overview and Scrutiny Acting as Audit Committee</u>	53
<u>Terms of Reference – Overview and Scrutiny Acting as a Corporate Governance Standards Committee</u>	55
<u>North Yorkshire Building Control Partnership Joint Committee</u>	58
<u>North Yorkshire Procurement Partnership Joint Committee</u>	59
<u>North Yorkshire Police and Crime Panel Joint Committee</u>	60
<u>PATROL LAJC</u>	61
<u>Part 4</u> - <u>Rules of Procedure</u>	71
(1) <u>Meetings and Proceedings of Council</u>	75
(2) <u>Access to Information Procedure Rules</u>	103
(3) <u>Budget and Policy Framework Procedure Rules</u>	108
(4) <u>Overview and Scrutiny Procedure Rules</u>	110
(5) <u>Financial Procedure Rules</u>	122
(6) <u>Financial Standing Orders</u> and Financial Regulations	142
(7) <u>Contract Procedure Rules</u>	144
(8) <u>Officer Employment Procedure Rules</u>	169
<u>Part 5</u> - <u>Codes and Protocols</u>	173
(a) <u>Members' Code of Conduct</u>	175
(b) <u>Officers' Code of Conduct</u>	191

(c)	Protocol for Member/Officer Relations	227
(d)	Protocol on attendance and questioning at Overview and Scrutiny	235
(e)	Planning Code of Practice	239
(f)	Protocol – Councillor Call for Action	287
(g)	Petition Scheme	289
(h)	Guide to Blogging and Social Networking	299
Part 6	Members' Allowances Scheme	301
	Members' Allowances Scheme	303
Part 7	- Management Structure	311

Part 1

Summary and Explanation

SUMMARY AND EXPLANATION

The Council's Constitution

At its meeting on 1 November 2001 the Ryedale District Council agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document. For instance, the Council's Standing Orders are included in Part 4 - Rules of Procedure

What is in the Constitution?

Article 1 of the Constitution commits the Council to explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committee (Article 6)
- The Policy and Resources Committee, the Licensing Committee and the Planning Committee (Article 7)
- The Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee (Article 8)
- Area Committees and Forums (Article 9)
- Joint arrangements (Article 10)
- Officers (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15)

How the Council Operates

As from 1 May 2003 the Council comprises 30 Councillors elected every four years. The overriding duty and accountability of Councillors is to the whole community, in the Ryedale District, but they have a special duty to their constituents in their Ward, including those who did not vote for them.

Councillors have to agree to follow a **Code of Conduct** to ensure high standards in the way they undertake their duties. The Overview and Scrutiny Committee acting as a Corporate Governance Standards Committee trains and advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's overall policies and set the budget each year; settle the Council's main plans, like the Best Value Performance Plan; and approve the Council's contribution as a partner to the Ryedale Community Plan.

How Decisions are Made

Most day to day decisions are made by Committees or senior officers of the Council under delegated authority. The Council has a Policy and Resources Committee responsible for policy including budget formulation and Community related issues, the Economy and the Environment. The Planning Committee deals with planning applications and related matters and Planning Policy. The Licensing Committee deals with regulatory licensing matters.

Meetings of the Council's Committees are, by law, publicised well in advance and are open to the public except where personal or confidential matters are being discussed.

Overview and Scrutiny

There is one Overview and Scrutiny Committee which examines and supports the work of the Policy and Resources Committee, the Licensing Committee, the Planning Committee and the Council as a whole. It reports and is accountable, to Full Council. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local interest. These can lead to reports and recommendations which advise the Policy and Resources Committee, the Licensing Committee, the Planning Committee and the

Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Policy and Resources Committee. They can “call-in” a decision which has been made but not yet implemented.

This enables them to consider whether the decision is appropriate. They may recommend that the relevant Committee or Full Council should reconsider the decision. They may also be consulted by the Policy and Resources Committee on forthcoming decisions and the development of policy. The Overview and Scrutiny Committee is responsible for ensuring that the Council complies with its duties concerning Best Value, in accordance with the Local Government Act 1999.

Area Committees or Forums

The Council does not currently have Area Committees or Forums but may choose to create these in the future, following public consultation on their number, composition, function and delegated financial authority.

The Council’s Staff

The Council employs staff, by convention known as Local Government Officers, to give advice, implement decisions and manage the day to day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol set out in Part 5 governs the relationships between Members of the Council and Officers, rooted in mutual respect.

Citizens’ Rights

Citizens have a number of rights in connection with their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council’s own processes.

Citizens have the right to:

- vote at local elections, if they are registered;
- contact their local Councillor about any matters of concern to them;

- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- inspect agendas and reports except where, for example, a report has been written about a confidential matter;
- petition to request a referendum on a mayoral form of executive;
- complain to the Council under its internal complaints process;
- complain to the Local Government Ombudsman if they think the Council has either broken the law or not followed its procedures properly. However, they should only do this after using the Council's own complaints process; and
- inspect the Council's accounts and make their views known to the external auditor.

A statement of the rights of citizens to inspect agendas and reports and attend meetings is available at the Council's offices.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen please contact: Council Solicitor, on extension 267.

Part 2

Articles of the Constitution

ARTICLE 1 - THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the Ryedale District Council (hereafter “the Council”).

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which he or she was directly involved;
7. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and

8. provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

1.5 Changes to the Constitution

The Council is responsible for approving any alterations to the Constitution. Such changes can reflect decisions of the Council, for example to alter the alternative arrangements or standing orders, decisions of committees, for example to alter delegations to officers, or from changes to national legislation. In order to keep the Constitution up to date as a central reference point for the rules by which the Authority operates, the Council has delegated power to the Head of the Paid Service to amend the Constitution as required to reflect decisions of the Council, of its Committees or legislative changes. Any other amendments will continue to require the express resolution of Council.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and Eligibility

- (a) **Composition** The Council currently comprises 30 Members, otherwise called Councillors as from 1 May 2003. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission for England and approved by the Secretary of State.
- (b) **Eligibility** Only registered voters of the District or those living or working in Ryedale are eligible to hold the office of Councillor.

2.2 Election and Terms of Councillors

Election and Terms The regular election of Councillors will be held on the first Thursday in May every four years. The terms of office of 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.

2.3 Roles and Functions of all Councillors

- (a) **Key Roles** All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out the principal strategic and corporate management functions, taking a District wide view;
 - (ii) engage with and represent their communities whose views they will bring into the Council's decision-making process;
 - (iii) balance different interests identified within the Ward and represent the Ward as a whole;
 - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics, and show respect for fellow Members, staff and the community.

(b) Rights and Duties

- (i) 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. The Head of Paid Service may refuse inspection of documents where the documents are, or in the event of legal proceedings would be, protected by privilege arising out of a Solicitor and Client relationship;
- (ii) Councillors will not make public 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.

For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution;

- (iii) No Councillor can issue an order for works to be carried out by or on behalf of the Council and nor can he/she claim any right to inspect or enter any land unless specifically authorised to do so by the Council.

2.4 Conduct

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

The Council is required to maintain and update a Register of Interests of its Members and co-opted Members. Details of the Register are set out in Part 3 of

the Members' Code of Conduct. The Register is available for public inspection at the Council's offices.

2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

Citizens have the following rights:-

(a) Voting and Petitions

- (i) Citizens on the electoral roll for the District have the right to vote and sign a petition to request a referendum for an elected mayor.
- (ii) Citizens have the right to sign a petition on any matter within the Council's purview (excluding certain issues including Licensing and Planning matters) and for any such petition to be considered by the Council as set out in the Council's Petitions Scheme. The Council's Petition Scheme is set out at Part 5 of this Constitution.

(b) Information Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.
(Citizens' rights to information are explained in more detail in the Access to Information Rules in Part 4 of this Constitution)

(c) Complaints Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme.

ARTICLE 4 - THE FULL COUNCIL

4.1 Meanings

(a) **Policy Framework** The policy framework comprises the following plans:-

- Community Plan (Sustainable Community Strategy)
- The Council Plan
- Community Safety Plan
- Local Development Framework
- Housing Strategy
- Licensing Policy
- Gambling Act 2005 – Statement of Licensing Principles

And any other statutory plans, strategies or programmes which the Council may from time to time resolve to add to the above list.

(b) **Budget** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the Full Council

Only the Council will exercise the following functions:

(a) Approving the strategic financing of the Council, upon recommendations from the Policy and Resources Committee where possible including:

- Determination of the Financial Strategy
- Approval of the Revenue Budget
- Approval of the Capital Programme
- Setting the Council Tax
- Determination of fees and charges where authority to set these has not been delegated
- Determination of borrowing limits

(b) Adopting and changing the Constitution except where otherwise provided in the Constitution or by resolution of the Council;

- (c) Approving and adopting the Policy Framework (see Article 4.01(a)) including such plans that the Council must formulate by statute (defined in the Local Authorities (Committee System) (England) Regulations 2012 and any subsequent regulations;
- (d) Approval of matters which require a decision that represents a significant departure from any existing strategy policy or budget previously agreed by the Council;
- (e) Receiving reports and recommendations from the Policy and Resources Committee, Overview and Scrutiny Committee and any other Committee;
- (f) All policy matters and new proposals relating to significant partnerships with external agencies and Local Authority companies;
- (g) Agreeing and/or amending the terms of reference of Committees (with the exception of the Licensing Committee), deciding on their composition and making appointments to them;
- (h) Appointing representatives to outside bodies for a period up to the end of the Council term, unless the appointment has been delegated by the Council;
- (i) Delegating significant functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (j) Adopting an allowance scheme under Article 2.05;
- (k) Changing the name of the District;
- (l) The election of the Chairmen and Vice-Chairmen of Committees without prejudice to the Council allowing the Committees to make such appointments;
- (m) Conferring the title of Honorary Alderman;

- (n) Confirming the appointment of the Head of Paid Service;
- (o) Approving, prior to an offer of employment, any salary package for any post that is in excess of £100k.
- (p) Determining any delegation to Officers which does not fall within the purview of any Committee;
- (q) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills, and
- (r) All other matters which by law must be reserved to Council.

Note: For the avoidance of doubt, it is confirmed that just as the Council retains ultimate responsibility for the actions of all its Committees, it also retains the ability to exercise all its powers whether or not such power is also delegated to a Committee or officer.

However, the Council will not exercise a power delegated under the Delegation Scheme without first certifying that such an exceptional step is required in the best interests of the Council.

The Council's ability to exercise its powers will not override or supersede any decision or action already taken by resolution of any Committee or officer acting under proper delegated authority.

4.3 Council Meetings

There are three types of Council meetings:

- (a) The Annual Meeting
- (b) Ordinary Meetings
- (c) Extraordinary Meetings

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

ARTICLE 5 - CHAIRING THE COUNCIL

5.1 Role and function of the Chairman

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

The Chairman, and in his/her absence the Vice-Chairman, will have the following roles and functions, to:-

1. uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. 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;
3. ensure that Council meetings are a forum for the debate of matters of concern to the local community;
4. promote public involvement in the Council's activities;
5. attend such civic and ceremonial functions as the Council and/or he/she considers appropriate.

ARTICLE 6 - OVERVIEW AND SCRUTINY COMMITTEE

6.1 Functions

The Council will appoint one Overview and Scrutiny Committee. This Committee will discharge the scrutiny and review functions conferred by regulations made under Section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the table below.

Function	Scope
Democracy and governance	Local democracy and the achievement of effective, transparent and accountable decision making by the Council.
Lifelong learning and culture	The provision, planning and management of education, training and culture in the Ryedale District in so far as the Council is responsible for this.
Public accounts	The Council's budget, the management of its budget, capital, revenue borrowing and assets and its audit arrangements.
Regeneration and housing	The physical, social and economic environment and regeneration of the Ryedale District; enabling the provision, planning and management of its housing and the rural and built environment.
Services	The provision, planning, management and performance of Council services, including support services, the community plan and any other Council functions not otherwise addressed by any other Committee.
Social inclusion	Policies and strategies of the Council and other bodies which affect the economic, social and political resources available to individuals to enable them to participate fully in society, especially in the context of the national strategy for neighbourhood renewal.

6.2 The Overview and Scrutiny Committee will also ensure that the Council complies with its duty concerning Best Value, in accordance with the Local Government Act 1999.

6.3 The Committee may sit to consider issues of particular significance, e.g. to comment on the Draft Community Plan; and also the draft “State of the District” annual report, if the Council adopts that approach.

6.4 **Terms of Reference**

The terms of reference for the Overview and Scrutiny Committee are set out in Part 3 of this Constitution entitled “Responsibility for Functions”.

6.5 **Finance**

The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to them.

6.6 **Annual Reports**

The Overview and Scrutiny Committee must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

6.7 **Officers**

The Overview and Scrutiny Committee shall exercise overall responsibility for the work programme of those officers whose function is wholly to support their work, and of other officers in so far as they support their work.

6.8 **Proceedings of Overview and Scrutiny Committees**

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

ARTICLE 7 - THE POLICY AND RESOURCES COMMITTEE, PLANNING COMMITTEE AND LICENSING COMMITTEE

7.1 The Policy and Resources Committee

The Council will appoint a Policy and Resources Committee responsible for policy including budget formulation, Community related issues, Economy and the Environment. The functions attributed to those Committees are set out in Part 3 of this Constitution entitled “Responsibility for Functions”.

7.2 The Planning Committee

The Council will appoint a Planning Committee which will be responsible for dealing with planning applications and related matters and Planning Policy. The functions of the Committee are set out in Part 3 of this Constitution entitled “Responsibility for Functions”.

7.3 The Licensing Committee

The Licensing Committee is established under the Licensing Act 2003 and shall carry out the functions of the Council as licensing authority under the Act, with the exception of the approval of the statement of licensing policy and the Gambling Act 2005 – statement of licensing principles which are reserved to the Council. Details of the Committee are to be found in Part 3 of the constitution. The Committee is responsible for regulating its own procedure and that of its sub committee(s) but those procedures have been included where relevant in this constitution.

ARTICLE 8 - THE OVERVIEW AND SCRUTINY COMMITTEE ACTING AS A CORPORATE GOVERNANCE STANDARDS COMMITTEE

8.1 Corporate Governance Standards Committee

The Council will have a Corporate Governance Standards Committee operated by the Overview and Scrutiny Committee.

8.2 Composition

(a) **Membership** The Corporate Governance Standards Committee will comprise:

The membership of the Overview and Scrutiny Committee;

(b) **Independent Persons** Where required by law the Corporate Governance Standards Committee will receive representations from the Independent Persons but will not be entitled to vote at meetings.

8.3 Roles and Functions

The terms of reference for the Corporate Governance Standards Committee are set out in Part 3 of this Constitution entitled “Responsibility for Functions” under the terms of reference for the Overview and Scrutiny Committee.

The Corporate Governance Standards Committee will:

- seek to promote and maintain a high standard of conduct in the transaction of all Council and Local Council business.
- assist in the observation of the Members’ Code of Conduct (set out in Part 5 of this Constitution).
- advise on the adoption, revision or monitoring of the Members’ Code of Conduct.
- take a general overview on all ethical issues and issues of probity.
- conduct hearings into complaints referred to it from the Monitoring Officer.

ARTICLE 9 - AREA COMMITTEES AND FORUMS

9.1 Area Committees and Forums

The Council may appoint Area Committees and/or Forums 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.

The Council will carry out appropriate consultation with relevant Parish and Town Councils, the Chairmen of relevant Parish Meetings and the public before considering whether, and if so how, to establish Area Committees and/or Forums.

9.2 Form, Composition and Function

To be devised in the event that the Council decides to create Area Committees and/or Forums.

9.3 Conflicts of Interest - Membership of Area Committees and Overview and Scrutiny Committees

(a) **Conflict of Interest.** If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of an Area Committee of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given.

(b) **General Policy Review.** 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.

9.4 Area Committees - Access to Information

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

ARTICLE 10 - JOINT ARRANGEMENTS

10.1 Arrangements to Promote Well Being

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

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

10.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions (which are not executive functions in any of the participating authorities), or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Details of any joint arrangements, including any delegations to Joint Committees, will be found in the Council's scheme of delegations in Part 3 of this Constitution.

10.3 Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply:
- (b) If the Joint Committee contains Members who are not on the executive of any participating local authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4 **Delegation to and from Other Local Authorities**

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

10.5 **Contracting out**

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

ARTICLE 11 - OFFICERS

11.1 Management Structure

- (a) **General** The Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** The Full Council will engage persons for the following posts, who will be designated Chief Officers, with the portfolios set out below alongside their wider strategic responsibilities.

Post	Areas of Responsibility
Chief Executive (and Head of Paid Service)	<ul style="list-style-type: none"> (i) Overall corporate management and operational responsibility (including overall management responsibility for all officers). (ii) Provision of professional advice to all parties and independent Members in the decision making process. (iii) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. (iv) To provide Members of the Council with policy options and recommendations to facilitate the achievement of the Council's vision and priorities. (v) Together with the Corporate Director to contribute to the corporate management of the Council through membership of the Management Team. (vi) Strategic Management of corporate initiatives. (vii) Representing the Council on significant partnership and external bodies (as required by statute or the Council). (viii) To be the Returning Officer under the Representation of the People Acts. (ix) To take all actions and make all decisions not reserved to the Council relating to the organisation or any electoral matters.

Post	Areas of Responsibility
Corporate Director	<ul style="list-style-type: none"> <li data-bbox="799 282 1422 412">(i) To provide Members of the Council with policy options and recommendations to facilitate the achievement of the Council's vision and priorities. <li data-bbox="799 450 1422 546">(ii) Contribute to the corporate management of the Council through membership of the Management Team. <li data-bbox="799 584 1422 645">(iii) Strategic Management of corporate initiatives. <li data-bbox="799 683 1422 786">(iv) Devise and review systems and processes to ensure the effective implementation of Council's policies. <li data-bbox="799 824 1422 884">(v) Ensure the efficient and effective utilisation of resources. <li data-bbox="799 922 1422 1019">(vi) Management of a portfolio of services as determined by the structure set out at Part 7.
Chief Financial Officer	<ul style="list-style-type: none"> <li data-bbox="799 1059 1422 1391">(i) The Chief Financial Officer will, following consultation with the Head of the Paid Service and the Monitoring Officer, report to the Full Council and the Council's external auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss of deficiency or if the Council is about to enter an item of account unlawfully. <li data-bbox="799 1429 1422 1525">(ii) The Chief Financial Officer shall have responsibility for the administration of the financial affairs of the Council. <li data-bbox="799 1563 1422 1827">(iii) The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, mal-administration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

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

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Financial Services Manager	Chief Financial Officer
Council Solicitor	Monitoring Officer

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

- (d) **Structure** The Head of Paid Service will determine and publicise a description of the overall organisation structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.2 **Functions of the Head of Paid Service**

- (a) **Discharge of Functions by the Council** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer, if a qualified accountant.

11.3 **Functions of the Chief Financial Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making** After consulting the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information** The Chief Financial Officer will provide financial information to the media, members of the public and the community.

11.4 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making** After consulting the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council if he or she 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.
- (c) **Supporting the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- (d) **Conducting investigations** The Monitoring Officer will conduct investigations into matters and make reports or recommendations in respect

of them to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.

- (e) **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (f) **Restrictions on posts** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

11.5 **Provision of sufficient resources to the Head of Paid Service, Chief Financial Officer and Monitoring Officer**

The Council will provide the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.6 **Conduct**

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

11.7 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

ARTICLE 12 - DECISION MAKING

12.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

12.2 Principles of Decision Making

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

- (a) the rule of law;
- (b) clarity of aims and desired outcomes.
- (c) proportionality (ie the action must be proportionate to the desired outcome);
- (d) due consultation and the taking of professional advice from officers and/or appropriately qualified consultants;
- (e) respect for human rights (see below for further details); and
- (f) a presumption in favour of openness.

12.3 Decision making by the Full Council

Subject to Article 12.06 the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.4 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the Licensing Committee

The Licensing Committee has adopted the provisions of the Local Government Act 1972 in respect of the proceedings of its meetings and subject to Article 12.07, will follow the Access to Information Procedure Rules and those parts of the Council Procedure Rules applicable to committees and panels set out in Part 4 of this Constitution Council Procedure Rules

12.6 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 12.07, other Council Committees and sub-Committees (with the exception of the Licensing Committee) will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

12.7 Decision making by Council Bodies Acting as Tribunals

The Council, a Committee or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure. This must accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

13.1 Financial Management

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

13.2 Contracts

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

13.3 Legal Proceedings

The Council Solicitor 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 Council Solicitor considers that such action is necessary to protect the Council's interests.

13.4 Authentication of Documents

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

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Council Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Council Solicitor should be sealed. The affixing of the Common Seal will be attested by the Council Solicitor or some other person authorised by him/her. The Chief Executive may attest the Common Seal in the absence of the Council Solicitor.

ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

14.1 Duty to monitor and review the Constitution

The Head of Paid Service will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of Constitution by the Head of Paid Service

A key role for the Head of Paid Service is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Head of Paid Service may:

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities or national examples of best practice.

14.2 Changes to the Constitution

Approval The Council is responsible for approving any alterations to the Constitution after consideration of a proposal from the Head of Paid Service or by way of Members proposing a motion on notice in accordance with Council Procedure Rule 11 after consulting with the Head of Paid Service. Such changes can reflect decisions of the Council, for example to alter the alternative arrangements or Standing Orders, decisions of Committees, for example to alter delegations to Officers, or from changes to national legislation. In order to keep the Constitution up to date as a central reference

point for the rules by which the Authority operates, the Council has delegated power to the Head of the Paid Service to amend the Constitution as required to reflect decisions of the Council, of Committee or legislative changes.

Any other amendments will continue to require the express resolution of Council. Where those changes involve the change to or from a Mayoral form of Executive, the change can only be made with the consent of the Mayor and the endorsement of a local referendum.

ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 Suspension of the Constitution

- (a) **Limit to suspension** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Full Council or Committees to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Full Council or the relevant Committee are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension** The following Rules may be suspended in accordance with Article 15.01:-

The Council Procedure Rules except Rules 16.6 and 17.2
Financial Procedure Rules
Contract Procedure Rules.

15.2 Interpretation

The ruling of the Chairman 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.

15.3 Publication

- (a) The Head of Paid Service will give a copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Head of Paid Service will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be

purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Head of Paid Service will ensure that the summary of the Constitution is made available on the Council's website and updated as necessary.

SCHEDULE 1: DESCRIPTION OF ALTERNATIVE ARRANGEMENTS

The following parts of this Constitution constitute the alternative arrangements:

1. Article 6 (Overview and Scrutiny Committees), the terms of reference for the Overview and Scrutiny Committees set out in Part 3 and the Overview and Scrutiny Procedure Rules.
2. Article 7 (The Policy and Resources Committee, Licensing Committee and the Planning Committee) and the terms of reference for those Committees set out in Part 3.

Part 3

Responsibility for Functions

RESPONSIBILITY FOR COUNCIL FUNCTIONS

1.0 Only the Council will exercise the following functions:

- (a) Approving the strategic financing of the Council, upon recommendations where possible from the Policy and Resources Committee where possible including:
 - Determination of the Financial Strategy
 - Approval of the Revenue Budget
 - Approval of the Capital Programme
 - Setting the Council Tax
 - Determination of fees and charges where authority to set these has not been delegated
 - Determination of borrowing limits
- (b) Adopting and changing the Constitution except where otherwise provided in the Constitution or by resolution of the Council;
- (c) Approving and adopting the Policy Framework (see 4.01(a)) including such plans that the Council must formulate by statute (defined in the Schedule to the Local Authorities [Alternative Arrangements] [England] Regulations 2001) and any subsequent regulations;
- (d) Approval of matters which require a decision that represents a significant departure from any existing strategy policy or budget previously agreed by the Council;
- (e) Receiving reports and recommendations from the Policy and Resources Committee, Planning Committee, Overview and Scrutiny Committee and any other Committee;
- (f) All policy matters and new proposals relating to significant partnerships with external agencies and Local Authority companies;
- (g) Agreeing and/or amending the terms of reference of Committees and panels (with the exception of the Licensing Committee), deciding on their composition and making appointments to them;

- (h) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (i) Delegating significant functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority;
- (j) Adopting an allowance scheme under Article 2.05;
- (k) Changing the name of the District;
- (l) The election of the Chairmen and Vice-Chairmen of Committees without prejudice to the Council allowing the Committees to make such appointments;
- (m) Conferring the title of Honorary Alderman;
- (n) Confirming the appointment of the Head of Paid Service;
- (o) Approving, prior to an offer of employment, any salary package for any post which is in excess of £100k.
- (p) Determining any delegation to Officers which does not fall within the purview of any Committee;
- (q) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills, and
- (r) All other matters which by law must be reserved to Council.

1.1 Other functions of the Council are delegated in accordance with the following Terms of Reference of Committees:

TERMS OF REFERENCE: PLANNING COMMITTEE

MEMBERSHIP:

The size of the Planning Committee is determined by Council.

FUNCTIONS:

Planning Committee (Regulatory)

1. To exercise the Council's functions as Local Planning Authority under the Town & Country Planning Acts and any regulations made thereunder including the formulation and preparation of the Local Development Framework.
2. Any function delegated to an Officer which in the opinion of the Officer should be determined by the Planning Committee.

Condition

Where the Planning Committee indicates that it is minded not to accept the officers' recommendations, the application be deferred to the next Planning Committee where so requested by the Head of Planning and Housing.

Planning Committee (Policy)

3. (a) To make recommendations to Council in relation to the approval or adoption of a plan or strategy comprising plans or alterations which together constitutes the Development Plan.
- (b) To determine all matters in the following stages of the production of Development Plan Documents in the Local Plan:
 - (i) Preparation Stage – the evidence base and arrangements for community involvement; publication of preparatory draft documents and associated public consultation.
- (c) To advise and make recommendations to Council upon the following stages of production of Development Plan Documents:
 - (i) Approval of any full draft development plan document for initial consultation.
 - (ii) Approval of any Proposed Submission Document prior to submission to the Secretary of State.
 - (iii) Adoption of Development Plan Documents following the Inspector's report and recommended modifications after the Examination.
- (d) In relation to the Neighbourhood Planning documents and the CIL charging schedule:

- (i) To determine all matters as relevant in the preparation, production, publication of Neighbourhood Planning documents and to advise Council as to the subsequent adoption of Neighbourhood Planning documents as covered by the Neighbourhood Planning Regulations 2012 (Neighbourhood Areas; Neighbourhood Forums; Community Right to Build Organisations; Neighbourhood Development Plans; Neighbourhood Development Orders and Community Right to Build Orders).
 - (ii) To advise and make recommendations to Council in respect of the preparation, consultation and production of the CIL preliminary draft charging schedule.
 - (iii) To advise and make recommendations to Council in respect of the preparation, production, consultation and approval of the draft CIL charging schedule to be submitted for examination and thereafter subsequent adoption.
- (e) To consider and make recommendations to Council on the adoption of Supplementary Planning Documents.
 - (f) To determine matters upon related projects and studies to the Local Plan or to make recommendations to Council.
 - (g) To consider and comment on behalf of the Council in respect of the Regional Strategy Local Development Frameworks, Neighbourhood Planning documents and other relevant plans or consultation exercises by Government, local authorities or other relevant bodies.
 - (h) To give detailed consideration and to make recommendations to Council in respect of all other planning policy matters such as the designation of Conservation Areas and amendments to their boundaries and the designation of locally listed buildings.”

DELEGATION OF FUNCTIONS:

All those matters referred to in Section 1.2 are delegated to the Officers specified, subject to the limitations specified.

The area of responsibility of the Head of Planning and Housing includes the functions and responsibilities of the Planning Committee.

TERMS OF REFERENCE: LICENSING COMMITTEE

MEMBERSHIP:

The size of the Licensing Committee is determined by Council.

FUNCTIONS:

1. Licensing Act 2003

(a) With the exception of the approval of the statement of licensing policy to discharge all the functions, and duties conferred on the Council by the Licensing Act 2003 and the Regulations made thereunder with a view to promoting the licensing objectives of:-

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm

having regard to the Council's Statement of Licensing Policy and regulations and guidance issued by the Secretary of State.

(b) To make comments on the Council's licensing policy.

2. Gambling Act 2005

(a) With the exception of the approval of the Statement of Licensing Principles to discharge all the functions and duties conferred on the Council by the Gambling Act 2005 and the Regulations made thereunder.

(b) To make comments on the Council's Gambling Act- Statement of Principles

3. Other Licensing and Registration Functions

To discharge all the Council's functions regarding licensing and registration including taxi licensing, licensing under the Gambling Act 2005 and recommending to Council all changes to licensing and registration fees, which fall outside of the agreed parameters in the Budget Strategy.

4. Any function delegated to an Officer which in the opinion of the Officer should be determined by the Licensing Committee.

DELEGATION OF FUNCTIONS:

All those matters referred to in Section 1.2 are delegated to the Officers specified, subject to the limitations specified.

The area of responsibility of the Head of Environment, Streetscene and Facilities includes the functions and responsibilities of the Licensing Committee.

TERMS OF REFERENCE: LICENSING SUB-COMMITTEE

MEMBERSHIP:

The Licensing Sub-Committee is comprised of any 3 Members of the Licensing Committee.

FUNCTIONS:

1. Licensing Act 2003 – Schedule of Delegations

Section 120 – Determination of application for personal licence where objection notice submitted by Police.

Section 121 – Determination of application for renewal of personal licence where objection notice submitted by Police.

Section 124 – Revocation of a personal licence

Section 18 – Determination of application for premises licence where relevant representations received.

Section 31 – Determination of application for provisional statement where relevant representations received.

Section 35 – Determination of application to vary premise licence where relevant representations received.

Section 39 – Determination of application to vary premises licence in relation to premises supervisor where relevant representations received.

Section 44 – Determination of application to transfer premises licence where relevant representations received.

Section 48 – Cancellation of interim authority notice where objection submitted by Police.

Section 52 – Determination of application for review of premises licence.

Section 167 – Determination of review of premises licence following closure order.

Section 72 – Determination of application for club premises certificate where relevant representations received.

Section 85 – Determination of application to vary club premises certificate where relevant representations received.

Section 88 – Determination of application for review of club premises certificate.

Section 90 – Withdrawal of club premises certificate.

Section 105 – Issue of counter notice to temporary events notice where objection notice submitted by Police.

Various – Decision to object when Local Authority is a consultee and not the relevant authority considering the application.

2. Gambling Act 2005

Section 154

- (a) Determination of an application for a premises licence in respect of which representations have been made under Section 161 (and not withdrawn).
- (b) Determination of an application for the variation of a premises licence in respect of which representations have been made under Section 161 as applied by Section 187 (and not withdrawn).
- (c) Determination of an application for transfer following representations by the Gambling Commission.
- (d) Determination of an application for a provisional statement under Section 204 in respect of which representations have been made under Section 161 as applied by Section 204 (and not withdrawn).
- (e) A review of a premises licence under Section 201.

3. **Local Government (Miscellaneous Provisions) Act 1982 (as amended) – Sexual Entertainment Venues**

Determination of all new, renewal and variation applications for Sexual Entertainment Venue Licences.

4. **Local Government (Miscellaneous Provisions) Act 1982 (as amended) – Sex Establishments**

Determination of all new applications for Sex Establishments.

5. Any function delegated to an Officer which in the opinion of the Officer should be determined by the Licensing Sub-Committee.

DELEGATION OF FUNCTIONS:

All those matters referred to in Section 1.2 are delegated to the Officers specified, subject to the limitations specified.

The area of responsibility of the Head of Environment, Streetscene and Facilities includes the functions and responsibilities of the Licensing Sub-Committee.

TERMS OF REFERENCE: POLICY AND RESOURCES COMMITTEE

MEMBERSHIP:

The size of the Policy and Resources Committee is determined by Council.

FUNCTIONS:

To discharge all the following functions and duties conferred on the Council:-

1. All functions not listed in Section 1.1 above which are not otherwise the responsibility of the Council in particular:-
 - (a) To provide overall leadership and direction of the Council;
 - (b) To ensure that the Council has strategies and policies in place which support the work of the Council and to fulfil statutory obligations;
 - (c) To ensure co-ordination of the policies and activities of the Council;
 - (d) To ensure effective performance of the Council in relation to stated policies and activities;
 - (e) To lead the search for Best Value in all that the Council does;
 - (f) To make recommendations to the Council on all strategic financing matters, including the setting of the Council Tax;
 - (g) To ensure that the best interests of the Council are protected in its work;
 - (h) All matters to do with the implementation of strategies and policies not within the Terms of Reference of other Committees including:
 - Strategic Commissioning
 - Community Safety
 - Cultural Services
 - Economic Development
 - Housing Services
 - Health and Environmental Services
 - Streetscene
 - Corporate Services
2. Any function delegated to an Officer which in the opinion of the Officer should be determined by the Policy and Resources Committee.

DELEGATION OF FUNCTIONS:

All those matters referred to in Section 1.2 are delegated to the officers specified, subject to the limitations specified.

Environmental Health Officers - As authorised in accordance with their individual qualifications and experience to exercise the powers of Inspectors contained in Section 19 of the Food and Environment Protection Act 1985, Part II of the Food Safety Act 1990, Sections 108 and 109 of the Environment Act 1995 and Part 1 of the Health and Safety at Work etc Act 1974.

Health Officers –

- (a) That all Consultants in Public Health Medicine either properly appointed or working in locum capacity to the Public Health England or its successor organisations be appointed as Proper Officer for the purposes of:
 - The Public Health (Control of Disease) Act 1984 and regulations made there under;
 - The National Assistance Act 1948 and National Assistance (Amendment) Act 1951 and any enactments amending or replacing the aforementioned legislation;
 - In relation to any reference to the Medical Officer of Health, or District Officer of Health or a District or Borough in any enactment passed before or during the 1971/72 Session of Parliament in any instrument made before 26 October 1972, power to sign and issue such notices the signature and issue of which is not otherwise provided for.
- (b) That the Proper Officer be given delegated authority to act on behalf of the Council in making any necessary application in accordance with Section 47 of the National Assistance Act 1948 as amended.
- (c) That the Council Solicitor be given delegated power to take all necessary legal action on behalf of the Proper Officer in the exercise of his functions.

TERMS OF REFERENCE: OVERVIEW AND SCRUTINY COMMITTEE

MEMBERSHIP:

The size of the Overview and Scrutiny Committee is determined by Council.

FUNCTIONS:

- (1) To perform a broad based Overview and Scrutiny role by:-
 - (i) investigating and reporting to the Policy and Resources Committee and/or Full Council on strategic policy issues of importance to the economic, health, social or environmental well being of the District of Ryedale and its residents and/or business;
 - (ii) reviewing and scrutinising the decisions made by and the performance of the Policy and Resources Committee and/or Joint Committees and Council officers (though this will not apply to decisions made on quasi judicial matters e.g. development control and licensing);
 - (iii) reviewing and scrutinising the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iv) making reports and/or recommendations to the Full Council and/or the Policy and Resources Committee and/or the, Regulatory, or Joint Committee arising from the outcome of the scrutiny process;
 - (v) exercising the right to call-in, for reconsideration, certain decisions made, but not yet implemented by the Policy and Resources Committee or Joint Committees;
 - (vi) questioning Members of the Policy and Resources Committee and/or Regulatory, Joint Committees and senior officers about their decisions and performance, whether generally in comparison with service delivery plans and targets over a period of time, or in relation to particular decisions, initiatives or projects (though this will not apply to decisions on quasi judicial matters);
 - (vii) receiving reports from the District Auditor and the Council's internal auditor and making suggestions for improvement in practice required as a result of those reports to Full Council and/or the Policy and Resources Committee;
 - (viii) reviewing and scrutinising the performance of other public bodies in the area and inviting reports from them by requesting them to address the Committee and local people about their activities and performance; and
 - (ix) questioning and gathering evidence from any person (with their consent).
- (2) To fulfil the Overview and Scrutiny role by:
 - (i) reviewing and assessing the Council's overall performance in relation to its targets (including those set out in the Community Plan), and making

- recommendations thereon to the Policy and Resources Committee and/or Full Council;
- (ii) reviewing and assessing the quality of service delivery across the Council, co-ordinating and publishing information on service performance, identifying and promoting best practice and making recommendations thereon to the Policy and Resources Committee and/or Full Council;
 - (iii) making recommendations to the Full Council on matters to be included in the Council's Plan and for Service Reviews (including cross-cutting Reviews) to be conducted having regard to the Council's strategic aims and key issues or in response to any individual concerns that may arise from time to time;
 - (iv) monitoring and considering the methodology for Service Reviews and making recommendations thereon to the Policy and Resources Committee and/or Full Council;
 - (v) receiving and considering recommendations from Service Reviews which have an impact on corporate policy, and making recommendations thereon to the Policy and Resources Committee for onward transmission to Full Council;
 - (vi) overseeing the progress of the Regulatory Committees in undertaking reviews of their own services against an agreed rolling review programme;
 - (vii) receiving Service Review Reports on those services which are the responsibility of the Policy and Resources Committee and making recommendations thereon to the Policy and Resources Committee and/or Full Council.
- (3) From time to time, the Overview and Scrutiny Committee may decide to sit to comment on proposals of particular significance, for example:-
- (i) considering the draft annual "State of the District" report;
 - (ii) considering the draft Community Plan and to monitor progress not less than annually;
 - (iii) liaising with other external organisations operating in the District, whether national, regional or local, to ensure that the interests of local people are protected or enhanced by collaborative working.

DELEGATION OF FUNCTIONS:

There is no delegation of functions.

TERMS OF REFERENCE: OVERVIEW AND SCRUTINY ACTING AS AUDIT COMMITTEE

The Overview and Scrutiny Committee has been given delegated authority to exercise the Audit Committee role for Ryedale District Council. References in these terms of reference to the 'Audit Committee' is a reference to the Overview and Scrutiny Committee exercising the Audit Committee role for Ryedale District Council

MEMBERSHIP:

All the members of the Overview and Scrutiny Committee

FREQUENCY OF MEETINGS:

Audit Committee agenda items will be a standing Item on the Overview and Scrutiny Committee Agenda at each of it's meetings.

FUNCTIONS:

- (1) To oversee the Council's corporate governance arrangements, the work of the Council's internal auditors, and the Council's response to external audit and other external inspections.
- (2) To review the operation and compliance with the Council's Local Code of Corporate Governance, and will report annually to Council on it's operation and make recommendations as appropriate and necessary on it's content.
- (3) To review and approve the Statement on Internal Control as required by the Accounts and Audit Regulations 2003. In doing so, the Committee will satisfy itself that it has obtained sufficient relevant and reliable evidence to support the disclosures made, in particular by:
 - (i) receiving reports on the monitoring and progress of action plans relating to corporate governance arrangements;
 - (ii) the receipt at least once a year of a review of the effectiveness of the Annual Governance Statement;
 - (iii) considering the progress and adequacy of management's response to these reviews; and
 - (iv) receiving reports on the review and monitoring or risk management.
- (4) It will have the authority to require the attendance of any elected member, or officer of the Council, and the Audit Manager, and the External Audit Manager, may report directly to the Committee or the Chair if deemed necessary.
- (5) In terms of internal audit, the Audit Committee may make recommendations in respect of certain Internal Audit operational matters as outlined in (i) to (iv) below, and may make recommendations to the Council's Policy and Resources Committee on policy matters. In particular, the Audit Committee will:-
 - (i) receive and endorse any internal audit strategies, codes of practice, audit plans, and reports of progress against such plans as it considers necessary;
 - (ii) receive the Annual Internal Audit Report;
 - (iii) review the progress and adequacy of management's response to internal audit recommendations, and matters arising from the internal audit reports;

- (iv) consider those internal audit reports which, in the view of either the Chief Executive, the Monitoring Officer the Chief Financial Officer of the Council or the Audit Manager require to be brought to the attention of the Audit Committee; and
 - (v) keep under review and make recommendations to the Council on the content and operation of the Council's Counter-Fraud and Corruption Policy, and Whistleblowing Policy.
- (6) In respect of external audit and other external inspections, the Audit Committee may make recommendations in respect of operational matters, and may make recommendations to the Councils Policy and Resources Committee on policy matters. In particular, the Audit Committee will:-
- (i) receive the external auditor's review of the Council's Statement of Accounts, Annual Audit Letter, Audit Plans, and any other reports and relevant matters deemed necessary by the external auditor;
 - (ii) receive the governance aspects of reports from any other external inspection bodies (and not the service aspects); and
 - (iii) review the progress and adequacy of management's response to external audit recommendations, and matters arising from other external inspection reports.
- (7) Without prejudice to the generality of the above the Audit Committee will exercise the following functions and role:
- (i) The Committee is charged with the responsibility for ensuring good stewardship of the authority's resources.
 - (ii) The Committee will recognise, and endorse the profile, status and authority of the internal audit function and will confirm its independence.
 - (iii) The Committee will contribute towards making the Council, its Committees and Directorates more responsive to Audit reports and recommendations.
 - (iv) The Committee is charged with the responsibility for promoting internal control by the systematic appraisal of the Council's internal control mechanisms, by the development of a counter-fraud culture and by the systematic review of financial procedures.
 - (v) The Committee is charged with the responsibility for focusing audit resources, by endorsing audit plans and monitoring the delivery of the audit service.
 - (vi) The Committee will monitor both internal and external audit performance.
 - (vii) The Committee will regularly, receive and consider a summary of internal audit work undertaken, including where necessary and appropriate, executive summaries or full audit reports.
 - (viii) The Committee will review compliance with Corporate Governance policies.
 - (ix) The Committee will monitor compliance with the Corporate Risk strategy.
 - (x) The Committee will ensure that it acts within the policies and strategies of the authority.

TERMS OF REFERENCE: OVERVIEW AND SCRUTINY ACTING AS A CORPORATE GOVERNANCE STANDARDS COMMITTEE

The Overview and Scrutiny Committee has been given delegated authority to exercise the Corporate Governance Standards Committee role for Ryedale District Council. References in these Terms of Reference to the Corporate Governance Standards Committee is a reference to the Overview and Scrutiny Committee exercising the Corporate Governance Standards Committee role for Ryedale District Council.

MEMBERSHIP

All the Members of the Overview and Scrutiny Committee.

FREQUENCY OF MEETINGS:

Corporate Governance Standards Committee agenda items will be a standing item on the Overview and Scrutiny Committee agenda on at least two occasions each year.

FUNCTIONS

The Corporate Governance Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives and officers.
- (b) Assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' and officers' Codes of Conduct.
- (d) Monitoring the operation of the Members' and Officers' Codes of Conduct.
- (e) Advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.
- (f) To consider and determine allegations that individual Members have breached the Members' Code of Conduct.
- (g) Taking all decisions that are necessary to deal with individual cases of alleged breaches of the Code.
- (h) The exercise of (f) and (g) above in relation to the Town or Parish Councils wholly or mainly in the Ryedale district and the Members of those Councils; and
- (i) Reviewing and monitoring the Council's response to:
 - (i) Probity and standards issues arising from internal audit functions and

reports of the external auditor.

- (ii) Corporate Governance issues, including overview of whistle blowing and complaints handling.
- (iii) Local Ombudsman's investigations.
- (j) The power to grant dispensations to Members and Co-opted Members.
- (k) Any other functions allocated to the Corporate Governance Standards Committee by Council under any enactment from time to time.

Terms of Reference of the Corporate Governance Standards Sub-Committee

1. Terms of Reference

- (a) The Corporate Governance Standards Sub-Committee is established to determine complaints that a Member of Ryedale District Council or a Town or Parish Council within the Ryedale district has failed, or may have failed, to comply with that Authority's Code of Conduct.
- (b) Upon completion of an investigation by the Investigating Officer, the Sub-Committee shall be responsible for determining whether:
 - (i) It accepts the Investigating Officer's finding of no failure to observe the Code of Conduct.
 - (ii) It accepts the Investigation Officer's finding of a failure to observe the Code of Conduct.
- (c) Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b), the Sub-Committee shall state its reasons for that decision.

2. Sanctions

In the event that the Corporate Governance Standards Sub-Committee makes a finding of a failure to observe the Code of Conduct it may impose any or all of the following sanctions:

- (a) Issue a letter of censure to the Member and where appropriate require an apology to be given to the complainant.
- (b) Recommend to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council.
- (c) Instruct the Monitoring Officer to arrange training for the Member.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

3. Composition of the Corporate Governance Standards Sub-Committee

- (i) The Corporate Governance Standards Sub-Committee shall comprise three Members of the Overview and Scrutiny Committee.

- (ii) Political proportionality is disapplied for the Corporate Governance Standards Sub-Committee.

4. Quorum

The quorum for a meeting of the Sub-Committee shall be three Members.

5. Frequency of Meetings

The Sub-Committee shall only meet as and when required to hear and determine any allegation(s) against an elected or co-opted Member of the Council and Town and Parish Councils.

TERMS OF REFERENCE: THE NORTH YORKSHIRE BUILDING CONTROL PARTNERSHIP JOINT COMMITTEE

MEMBERSHIP:

- 1 Member from Hambleton District Council
- 1 Member from Richmondshire Council
- 1 Member from Ryedale District Council
- 1 Member from Scarborough Borough Council
- 1 Member from Selby District Council

FUNCTIONS:

1. All Building Control functions.
2. All functions in connection with dangerous structures.

DELEGATION OF FUNCTIONS:

Onward limits on delegations

All matters are delegated to the Head of Building Control appointed by the Joint Committee.

TERMS OF REFERENCE: THE NORTH YORKSHIRE PROCUREMENT PARTNERSHIP JOINT COMMITTEE

MEMBERSHIP:

1 Member from Ryedale District Council

1 Member from Scarborough Borough Council

1 Member from Selby District Council

FUNCTIONS:

The Council appoints the Procurement Partnership to provide procurement services to the Council as specified in any Partnership agreement between the Council and the other participating authorities.

The Council authorises the Joint Committee to grant approval for the letting of consortia Framework Contracts on behalf of the Council and its partner Authorities provided that tenders or quotations are invited and contracts placed in accordance with procedures which are the same as or are equivalent to the Council's Contract Procedure Rules and comply with any national or EU legislation.

DELEGATION OF FUNCTIONS:

Onward limits on delegations

The Council further authorises expenditure by the Chief Executive, Corporate Director and Heads of Services through Framework Contracts let by the Partnership, subject to such expenditure being within the budget and policy framework approved by Council.

TERMS OF REFERENCE: THE NORTH YORKSHIRE POLICE AND CRIME PANEL JOINT COMMITTEE

MEMBERSHIP:

- 1 Member from Craven District Council
- 1 Member from Hambleton District Council
- 1 Member from Harrogate Borough Council
- 1 Member from Richmondshire Council
- 1 Member from Ryedale District Council
- 1 Member from Scarborough Borough Council
- 1 Member from Selby District Council
- 1 Member from North Yorkshire County Council
- 2 Members from the City of York Council

FUNCTIONS:

The Police and Crime Panel exercises functions conferred by the Police Reform and Social Responsibility Act 2011.

TERMS OF REFERENCE: THE PARKING AND TRAFFIC REGULATIONS OUTSIDE LONDON ADJUDICATION JOINT COMMITTEE (“PATROL LAJC”)

MEMBERSHIP:

1 Member from each of the participating Councils.

FUNCTIONS:

The Council appoints PATROL LAJC to operate the Parking and Traffic Offence Adjudication Service as specified in the Memorandum of Participation and Deed of Arrangements between the Council and the other participating authorities.

1.2 SCHEME OF OFFICER DELEGATION

1.2.1 The Council delegates to the Chief Executive, Corporate Director, Heads of Service, Council Solicitor and any officer acting in her/his place in accordance with paragraph 1.2.6 below the authority to:

- (a) Implement decisions of the Council, the Council's committees and sub-committees in the discharge of the Council's functions within their area of responsibility, including policy, strategy, executive, regulatory and operational decisions.
- (b) Take all routine decisions including those of a professional, managerial, operational or regulatory nature in relation to the discharge of the Council's functions within their area of responsibility. Delegated powers shall include the carrying out of all duties and powers covered by the function including administrative and procedural acts, the exercising of discretion and the making of determinations.
- (c) Take decisions in relation to the discharge of the Council's functions within their area of responsibility after consultation with the Leader of Council or Chairman of the appropriate committee or sub-committee.
- (d) In relation to matters not falling within paragraphs (a) to (c) above, submit a report and make recommendations as appropriate to the Council, the committee or sub-committee.
- (e) Take decisions in relation to the discharge of any of the Council's functions in cases of emergency.

1.2.2 The officer shall always be entitled to refer a matter to the Council or appropriate committee or sub-committee for decision where s/he considers it expedient to do so.

1.2.3 The officer may authorise an officer(s) to exercise, on her/his behalf, functions delegated to her/him. Any decision taken under this authority shall remain the responsibility of the relevant officer named in paragraph 1.2.1 above and must be taken in the name of that officer who shall remain accountable and responsible for such decisions.

1.2.4 In discharging delegated functions officers shall;

- (a) Comply with all relevant legislation.
- (b) Comply with the Constitution of the Council and relevant guidance.
- (c) Having regard to value for money principles and use the most efficient and effective means available, including the deployment of staff and other resources under their control and the procurement of other resources as may be necessary whether within or outside the Council.
- (d) Act in accordance with the policies, strategies and objectives of the Council.
- (e) Have regard to the corporate interests of the Council.

- 1.2.5 Officers discharging functions, other than those which relate to her/his area of responsibility, under paragraph 1.2.1 (e) above must report any action taken to the appropriate Committee.
- 1.2.6 Where an officer referred to in paragraph 1.2.1 above is to be absent for any period, s/he or the Chief Executive or Corporate Director, as appropriate, must nominate in writing another officer to act in her/his place during their absence.

Appointment of Proper Officers

- 1.2.7 An officer referred to paragraph 1.2.1 above is the proper officer for all purposes relating to her/his area of responsibility.
- 1.2.8 The Chief Executive or Corporate Director shall, where necessary, appoint proper officers for the discharge of the Council's functions where an appointment is required by any legislation.

Statutory and Proper Officers

Officer	Function(s)
Chief Executive	(i) Part III of the Local Government Act 1972 (ii) Representation of the People Act 1983 (iii) Parish and Community Meetings (Polls) rules 1983
Council Solicitor	(i) Parts I, V, VII (excluding Sections 115 and 146), IX, XI, XII, Schedule 14, 16 and Schedule 29 of the Local Government Act 1972 (ii) Section 5 (Monitoring Officer) and 19 of the Local Government and Housing Act 1989 (iii) Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (iv) Local Authorities (Standing Orders) (England) Regulations 2001
Chief Financial Officer	(i) Section 115 and Part VIII (including Section 151) of the Local Government Act 1972

Head of Environment, Streetscene and Facilities	(i) Public Health (Control of Disease) Act 1984 (ii) Public Health Act 1936 (iii) Environmental Protection Act 1990
Head of Planning and Housing	(i) The Housing Acts 1985, 1988 and 1996 (ii) Sections 80 and 84 of the Environmental Protection Act 1990 (iii) Section 78 of the Building Act 1984
Chief Executive, Chief Financial Officer and Council Solicitor	All other proper officer functions within their area of responsibility, including Part VA of the Local Government Act 1972 in respect of reports prepared by officers within their areas.

1.2.9 Without prejudice to the generality of the foregoing scheme of officer delegation the functions of Officers shall include (as appropriate to their areas of responsibility) power within the approved establishment to recruit, manage and, where necessary, dismiss staff under their control and in particular:-

- to authorise pay and conditions (including honoraria);
- to undertake disciplinary proceedings;
- to defend and, if necessary (and subject to the approval of the Chief Financial Officer or his nominee if it involves claiming on the Council's insurance) settle any claims made against the Council;
- to be responsible for the health and safety at work of staff;
- to implement all employment policies, practices and procedures;
- to operate the Council's Grievance Procedures.

1.3 OFFICER SCHEME OF DELEGATION PROTOCOLS:

Under the Council's Scheme of Delegation most operational and administrative matters are delegated to the Chief Executive, Corporate Director, Chief Financial Officer, Council Solicitor and Heads of Service. These Protocols set out how the Chief Executive, Corporate Director, Chief Financial Officer, Council Solicitor and the Heads of Service propose to exercise these powers with a view to ensuring that Members still have adequate opportunity to comment on and be involved in the decision making process as appropriate.

(i) POLICY AND RESOURCES COMMITTEE PROTOCOL

Matters to be presented to the Policy and Resources Committee:-

1. Any decisions that fall outside the scheme of delegation for officers for all functions within the responsibility of the Policy and Resources Committee - for example where an approval is needed for expenditure above officer spending limits - shall be presented as **Part A** reports for determination by the Committee.
2. Any function delegated to an Officer which in the opinion of the Officer should be determined by the Policy and Resources Committee shall be presented as **Part A** reports for determination by the Committee.
3. Any significant changes to or departures from existing policy, or any new policy issues, for functions within the responsibility of the Policy and Resources Committee shall be presented as **Part B** reports for a Committee recommendation to Council.
4. Any significant changes to or departures from the existing budget for functions within the responsibility of the Policy and Resources Committee shall be presented as **Part B** reports for a Committee recommendation to Council.

(ii) COUNCIL PROTOCOL

Where in the opinion of the Chief Executive, Corporate Director, Chief Financial Officer or Council Solicitor timing is of the essence, matters may be reported direct to Council.

(iii) PLANNING COMMITTEE PROTOCOL

This Planning Protocol is intended to provide a guide to the exercise by the Head of Planning of delegated powers in relation to the Planning and Listed Building functions.

This Protocol comprises two elements showing the division of responsibility between the Planning Committee and the Head of Planning:

- (i) a Process Map; and
- (ii) text intended to provide a plain English guide to terminology.

This Protocol should be read in conjunction with the delegation scheme for the Head of Planning.

Planning Applications Process Map

Committee Decisions	Delegated decisions
Major Development Applications	Major Development Applications
<ul style="list-style-type: none"> All major category applications eg more than 9 dwellings, more than a hectare, commercial applications more than 1000m2 	<ul style="list-style-type: none"> The refusal of major applications on the grounds of inadequate or incomplete information. The refusal of major applications which are repeat applications of the same or similar proposals which have previously been refused by the Local Planning Authority within the preceding 12 months. <p style="text-align: center;">BVPI target 60% in 13 weeks 10-12 applications per year in Ryedale about 1% of total applications</p>
Minor/Other Applications	Minor/Other applications
<ul style="list-style-type: none"> Approvals where more than one objection with reasons raising material planning considerations is received. (1) Approval recommendations which would be contrary to policies in the Local Plan. All applications where a clear and convincing request (2) for referral to Committee based on material planning considerations is received from a Council Member (3) All applications submitted by Members of the Council; Members of staff or other close relative. The Councils own applications. Refusal recommendations where there is a clear conflict of opinion (4) with parish/town council or third parties in relation to material planning considerations. 	<ul style="list-style-type: none"> All approvals where there are no objections to the proposal All approvals where non material planning objections (5) have been received All approvals where plan revisions and or appropriate conditions are judged (6) to address third party objections. Approvals where parish/town council and/or single third party objections with reasons are received but where there are no public interest issues (7) involved. All refusals where there is no explicit support (8) for the proposal from parish/town councils and or third parties. All refusals where the decision is based on Inadequate information/quality of information (9).

Explanatory Notes to the Planning Protocol

1. Material planning consideration – Point 4.3/4 Planning Code of conduct –

Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 38(6) Planning & Compulsory Purchase Act 2004 says that planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of:

- The Ryedale Local Plan (2002)

For the purposes of Section 119 and Schedule 8 of the Planning & Compulsory Purchase Act 2004, the transitional arrangements are that the following plans:

Ryedale Local Plan (Adopted 2002) incorporating Selective Alteration No1 (Adopted 2004)

have effect for a transitional period as from 28 September 2004.

Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes, Planning Policy Statements (PPGs/PPS), Regional Planning Guidance, Circulars and Ministerial announcements;
- planning briefs, planning policy statements and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

2. Clear and convincing request – A written request in writing to the Head of Planning within 21 days of the date of issue of the weekly application list.

3. Council Member - This point applies to any District Council Member

4. Clear conflict of opinion – ie where parish or town councils consultees, members of the public, elected Members or other organisations recommend support or approval with reasons.

5. Non material planning objections – see Planning Code of Conduct point 4.5. The objections with reasons should be made in writing to the Head of Planning.

There is much case law on what are, and are not material planning matters. **Planning matters must relate to the use and development of land.** For example, the following are **not** normally planning matters and **cannot be taken into account in planning decisions**:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. Judged – the case officer in consultation with the Head of Planning will judge whether the revisions or conditions address the third party objections.

7. Public interest issues – Development Control is about controlling development in the public interest ie a householder extension at the rear of the property, not perceived outside the site is an example of an application of limited impact with little or no public interest. Whereas an application for new dwellings in a prominent site readily visible from an adjacent footpath would have considerable public interest issues.

8. Explicitly support – A “No comments”, “No Objection”, support/approval with no reasons raising **material planning considerations** are responses which are not considered to be explicit support for an application.

9. Inadequate information/quality of information – The Case officer in consultation with the Head of Planning will assess the adequacy of the information. An example would be poor quality of plans or inaccurate plans.

10. Conflict with local plan – ie the erection of a new dwelling in the countryside outside a development area or failure to satisfy all the criteria of a Policy in the Local Plan.

11. Major development – is defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995 as development involving:

- (a) the provision of dwellinghouses where -
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (a) (i);
- (b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (c) development carried out on a site having an area of 1 hectare or more.

Part 4

Rules of Procedure

1: MEETINGS AND PROCEEDINGS OF COUNCIL

CONTENTS

Rule	Page
<u>Part I - Meetings and Proceedings of Council</u>	75
1. <u>Annual Meeting of the Council</u>	75
2. <u>Ordinary Meetings</u>	77
3. <u>Extraordinary Meetings</u>	78
4. <u>Time and place of meetings</u>	79
5. <u>Notice of and summons to meetings</u>	79
6. <u>Chairman of meeting</u>	79
7. <u>Quorum</u>	79
8. <u>Duration of meeting</u>	80
9. <u>Questions by the public</u>	80
10. <u>Questions by Members</u>	82
11. <u>Motions on notice</u>	83
12. <u>Motions without notice</u>	84
13. <u>Rules of debate</u>	85
14. <u>Previous decisions and motions</u>	89
15. <u>Voting</u>	89
16. <u>Minutes</u>	91
17. <u>Record of attendance</u>	92
18. <u>Exclusion of public</u>	92
19. <u>Members' conduct</u>	92
20. <u>Disturbance by public</u>	93
21. <u>Recording and Other Equipment</u>	94
22. <u>Petitions</u>	94
23. <u>Suspension and amendment of Council Procedure Rules</u>	95
<u>Part II - Meetings and Proceedings of Committees</u>	95
24. <u>Application of Council Procedure Rules to Committees</u>	95
25. <u>Appointment of Committees</u>	95
25A. <u>Appointment of Standing Committees</u>	96
25B. <u>Sub-Committees</u>	96
25C. <u>Working Parties</u>	97
26. <u>Ordinary Meetings of Committees</u>	97

27.	<u>Special Meetings of Committees</u>	97
28.	<u>Substitute Members of Committees</u>	98
29.	<u>Independent Persons</u>	99
30.	<u>Chairmen of Committees</u>	99
31.	<u>Proposer of Motion May Attend</u>	100
32.	<u>Items for Agenda</u>	100
33.	<u>Attendance of Member as Observer</u>	100
34.	<u>Suspension of Procedure Rules</u>	100
35.	<u>Speaking Rights at Planning Committee</u>	100
	<u>Part III - Miscellaneous Matters</u>	101
36.	<u>Planning Training</u>	101
37.	<u>Matters of Urgency</u>	102
38.	<u>Declaration of Interests by Members – Interests of Members in Contracts and Other Matters</u>	102
39.	<u>Disclosable Pecuniary Interest (DPI)</u>	102

PART I - MEETINGS AND PROCEEDINGS OF COUNCIL

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place in May, on a date to be fixed in advance.

The Annual Meeting will:

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) appoint the Vice-Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or Head of the Paid Service;
- (vi) appoint an Overview and Scrutiny Committee, in addition to the Licensing Committee and such other committees as the Council considers appropriate;
- (vii) decide the size and terms of reference for those committees with exception of the Licensing Committee (as set out in Part 3 of this Constitution);
- (viii) to elect Chairman and appoint Vice-Chairman of the Council's Committees, Sub-Committees and Working Groups for the ensuing Municipal Year. If the Council does not make these appointments, Committees, Sub-Committees and Working Groups may appoint their own Chairman and Vice-Chairman subject to confirmation at the next meeting of the Council.
- (ix) consider any business set out in the notice convening the meeting;

- (x) if following a local election, to receive the report of the Chief Executive upon:-
 - (i) the result of the elections of Councillors to the Wards of the Council held on the day fixed for the purpose by the Secretary of State under the provisions of the Local Government Act 1972;
 - (ii) the acceptance of office of Councillors elected.
- (xi) authorisation to the payment of the proper expenses of the Elections.

The Council may elect a Leader and a Deputy Leader.

1.2 **Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council will:

- (i) decide the allocation of seats to political groups in accordance with the political balance rules;
- (ii) receive nominations of Councillors to serve on each committee and outside body; and
- (iii) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

1.3 **Variation of Order of Business**

Except for items (i), (ii) and (iii) of Rule 1.1 above the order of business may be varied either:

- (a) by the Chairman at his/her discretion; or
- (b) by a resolution of the Council, passed on a motion (which need not be in writing) duly proposed and seconded which, once moved, shall be put without discussion.

2. **ORDINARY MEETINGS**

2.1 **Timing and Business**

Ordinary Meetings of the Council will take place in accordance with a programme decided by the Council at an Ordinary Meeting in the previous municipal year. Ordinary Meetings will:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) deal with any business required by statute to be done before any other business;
- (iii) deal with any questions submitted by Members of the Public;
- (iv) approve the minutes of the last meeting;
- (v) deal with any business expressly required by statute to be done;
- (vi) receive any declarations of interest from Members;
- (vii) receive any announcements from the Chairman, Leader or Head of Paid Service;
- (viii) deal with formal questions from Members under Rule 10;
- (ix) deal with petitions or similar communications submitted by members of the public under Rule 22;
- (x) dispose of any business from the last Council meeting;
- (xi) receive a statement from the Leader of Council and receive questions and answers on that statement;
- (xii) receive reports from the Council's committees and receive questions and answers on any of those reports;

- (xiii) consider motions submitted by Members pursuant to Rule 11 in the order in which they have been received;
- (xiv) consider any other business specified in the summons to the meeting, and reports of the Overview and Scrutiny Committee for debate; and
- (xv) to authorise, where necessary, the sealing of documents.

2.2 Variation of Order of Business

Except for items (i), (ii) and (iii) of Rule 2.1 above the order of business may be varied either:

- (a) by the Chairman at his/her discretion; or
- (b) by a resolution of the Council, passed on a motion (which need not be in writing) duly proposed and seconded which, once moved, shall be put without discussion.

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 Chairman of the Council;
- (iii) the Monitoring Officer; or
- (iv) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council. If the Chairman refuses to call a meeting or fails to call a meeting within five working days of the presentation of the requisition, the five members concerned may require the Proper Officer to

call the meeting. The requisition must specify the business which it is proposed to transact at the meeting.

3.2 Business

The summons for the Extraordinary Meeting must set out the specified business to be transacted, and no other business can be considered at the meeting.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Council in advance and notified in the summons.

5. NOTICE OF AND SUMMONS TO MEETINGS

- 5.1 The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her in writing to every Member of the Council. 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.

6. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee meetings, references to the Chairman also include the chairman of committees.

7. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members and shall, in any event, be not less than 3 Members. 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. DURATION OF MEETING

8.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for three and a half hours (excluding adjournments) will adjourn immediately following conclusion of the item of business under consideration. 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 The closure time for meetings will be recorded in the minutes.

9. QUESTIONS BY THE PUBLIC

9.1 General

Members of the public (either residents of or those with a business interest in the District of Ryedale) may ask questions at all ordinary meetings of Full Council. The total time allowed at any meeting for questions by the public shall be half an hour.

9.2 Order of questions

Questions will be asked in the order they are received, however the Chairman may group together similar questions.

9.3 Notice of questions

A question may only be asked if notice has been given by delivering the question in writing which must be sent to the Chief Executive by post or electronic mail no later than 48 hours before the day of the meeting. Each question must be accompanied by the name, address, telephone number and e-mail address (if applicable) of the questioner.

9.4 Number of questions

No person may submit more than one question at any one meeting and no more than one such question may be asked on behalf of any one organisation.

9.5 Length of questions

Questions should be no longer than 100 words in length with a preamble limited to 3 minutes duration.

9.6 **Scope of questions**

- (i) The question asked at Council must not depart from the text of the question previously submitted to the Chief Executive in writing.
- (ii) Any questions or statements must relate to a matter for which the local authority has a responsibility or which affects the statutory functions of the District Council.
- (iii) The Chief Executive may reject a question if:
 - It is not about a matter for which the local authority has a responsibility or which affects the statutory functions of the District Council;
 - It is defamatory, frivolous or offensive;
 - It requires the disclosure of confidential or exempt information;
 - It relates to an individual/group business or the questioner's own particular circumstances;
 - It relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a tribunal or to a Government Minister or an investigation by the Local Government Ombudsman;
 - It relates to the personal circumstances or conduct of any Officer and Councillor or conditions of service of employees;
 - It relates to the appointment, promotion, dismissal, salary or other payments, superannuation or conditions of employment or the conduct or ability of any individual employed by the Council or the conduct of a member of the Council;
 - It relates to the activities and aims of a political party or organisation;
 - It relates to individual planning applications;
 - It is a statement and not a genuine enquiry;
 - Where the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort;
 - It is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
 - It is about an operational matter for which an officer response is more appropriate.

9.7 **Record of questions**

The Chief Executive will enter each question in a file open to public inspection. Rejected questions will include reasons for rejection.

9.8 **Asking the question at the meeting**

The Chairman will invite the questioner to put the question to him/her. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman or Chief Executive to put the question on their behalf. A written reply will be given to the questioner within a reasonable period following the meeting.

9.9 **Supplemental questions**

A questioner who has put a question in person may also put one supplementary question without notice. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9.6 (iii) above. No person asking a supplementary question may speak for more than one minute.

9.10 **Written answers**

Any question which cannot be dealt with during public question time for whatever reason will be dealt with by a written answer.

9.11 **Reference of question to a Committee**

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

10. **QUESTIONS BY MEMBERS**

10.1 **On reports of committees**

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

10.2 **Questions on notice at full Council**

Subject to Rule 10.4, a Member of the Council may ask:

- the Chairman;
- the Leader; or
- the Chairman of any committee;

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

10.3 **Questions on notice at committees**

Subject to Rule 10.4, a Member of a committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the Ryedale District and which falls within the terms of reference of that committee.

10.4 **Notice of questions**

A Member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) he/she has given notice in writing of the question to the Proper Officer not later than 5pm, eight working days before the date of the meeting; or
- (b) the question relates to an urgent matter, he/she has have the consent of the chairman to whom the question is to be put and the content of the question is given to the Proper Officer by 12 noon on the day of the meeting. An urgent matter must be one which the Member could not have reasonably known about eight working days before the date of the meeting and which must be dealt with before the next ordinary meeting of Council.

10.5 **Response**

An answer may take the form of:

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

10.6 **Supplementary question**

A Member asking a question under Rule 10.2 or 10.3 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.

11. **MOTIONS ON NOTICE**

11.1 **Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least two Members, must be delivered to the proper officer not later than 12 noon, eight days before the date of the meeting. These will be entered in a file open to public inspection.

Written notice of motions may be given by email, from a ryedale.gov.uk email address. Signatures are not required in these instances but consent must be received from each Member who has put their name to the motion by e mail from a ryedale.gov.uk email address .

11.2 **Motion set out in agenda**

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

11.3 **Scope**

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

11.4 **Debate**

A motion concerning a matter within the purview of any committee which is moved and seconded shall automatically stand referred to that committee. The Chairman may, however, allow the motion to be dealt with at the meeting at which it is moved if he/she considers it convenient and conducive to the despatch of business.

11.5 **Voting on Motions**

At the end of a debate the motion shall be formally concluded by a vote and the numbers be recorded.

12. **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 committee, body or individual;
- (e) to appoint a committee or members thereof arising from an item on the summons for the meeting;

- (f) to receive reports or adopt 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 three and a half hours in duration (see *Rule 8*);
- (n) to suspend a particular council procedure rule;
- (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 19.3 or to exclude them from the meeting under Rule 19.4; and
- (q) to give the consent of the Council where its consent is required by this constitution.

13. RULES OF DEBATE

13.1 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.

13.2 Right to require motion in writing

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

13.3 Secunder's speech

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

13.4 Content and length of speeches

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

13.5 **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 (see Rule 13.9);
- (e) on a point of order;
- (f) by way of personal explanation; or
- (g) at the discretion of the Chairman.

13.6 **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 committee, body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words;as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7 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.

13.8 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.

13.9 Right of reply

- (a) The mover of a motion has a right to reply, if there has been a debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on the amendment. In exercising a right of reply on the motion, the mover of the motion may not introduce any new matter.
- (c) The mover of the amendment has a right of reply to the debate on his or her amendment immediately before the mover of the original motion. In exercising a right of reply to the debate on his or her amendment, the mover of the amendment may not introduce any new matter.

13.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond three and a half hours in duration (see *Rule 8*);
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

13.11 Closure motions

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

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be 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.

13.12 Point of Order

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

13.13 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 misrepresented in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one quarter of the whole number of Members of the Council.

Such notice of motions may be given by email, from a ryedale.gov.uk email address. Signatures are not required in these instances but consent must be received from each Member who has put their name to the motion by e mail from a ryedale.gov.uk email address.

14.2 Motion similar to one previously rejected

A motion or amendment in the same terms as, or similar terms to, one that has been rejected at a meeting of Council in the past six months cannot be moved for a further six months, unless this rule is suspended pursuant to Rule 23.

15. **VOTING**

15.1 **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.

15.2 **Chairman's casting vote**

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

15.3 **Method of Voting**

Voting shall be by use of the Council's electronic voting system or, as an exception approved by Council, or where the electronic system is not working, by a show of hands, or if there is no dissent, by affirmation of the meeting.

15.4 **Electronic Voting**

Where voting is by means of the electronic voting system the result of the vote shall be as indicated by the electronic voting system announced by the person presiding at the meeting.

15.5 **Recorded vote**

If, before a vote is taken, three Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be recorded using the electronic voting system and entered into the minutes. In the case of a vote by a show of hands this should be by roll-call and the vote or abstention of each Member shall be recorded.

All votes relating to the setting of the budget and the Council Tax at Budget Council meetings shall be recorded.

15.6 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 he/she voted for or against the motion or abstained from voting.

15.7 Voting on appointments

If there are more than two people nominated for any position to be filled, the method of voting will be by way of ballot. If there is not a clear majority of votes in favour of one person (i.e. the number of votes cast for one person is not greater than the total sum of the votes cast for all other nominees), 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. If at any stage in the process there is an equal number of votes cast for two nominees when one of them is to be appointed or taken off the list the issue will be determined by the drawing of lots.

16. MINUTES

16.1 Signing the minutes

The Chairman will sign the minutes of the proceedings (including confidential minutes) at the next suitable meeting. The Chairman 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.

When the minutes have been signed, Members may ask questions to ascertain what progress has been made on a particular matter referred to in the minutes, but not make any other statement or generate discussion on the minutes.

16.2 **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.

16.3 **Form of minutes**

Minutes will contain all motions and amendments in the form and order the Chairman put them. (The minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information may not be made available to the public but a summary of the proceedings will be made available where the minutes open to inspection do not provide a reasonably fair and coherent record - See the Access to Information Procedure Rules in Part 4 of the Constitution).

17. **RECORD OF ATTENDANCE**

A record of attendance will be made by the officer supporting the meeting for each committee, sub-committee or working party.

18. **EXCLUSION OF PUBLIC**

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 20 (Disturbance by Public).

19. **MEMBERS' CONDUCT**

19.1 **Standing to speak**

When a Member speaks at Full Council he/she must, where possible, stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the other(s) 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. The Chairman has the right to waive the requirement for a Member to stand to speak where he/she considers it appropriate to do so.

19.2 Chairman standing

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

19.3 Member not to be heard further

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

19.4 Member to leave the meeting

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

19.5 General disturbance

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

20. DISTURBANCE BY PUBLIC

20.1 Removal of member of the public

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

20.2 Clearance of part of meeting room

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

21. RECORDING AND OTHER EQUIPMENT

Anyone who wishes to use an electronic device to record, photograph, film or make live text based communications of public meetings of Council or any Committee or Sub-Committee may do so provided:

- (i) The electronic device is set to silent mode;
- (ii) There is no interference with the proceedings of Council or Committee (including the use of flash photography);
- (iii) There is no interference with the sound system used for meetings of Council or a Committee.

As a courtesy it is requested that the Chairman of the meeting be notified in advance so that all those present at the meeting can be made aware that recording is taking place.

Permission to use electronic devices may be withdrawn by the Chairman of the meeting at any time, if it is causing disturbance or disruption to the meeting, and use of the electronic device in the meeting must cease.

These requirements do not apply to the use of equipment for providing assistance for people with a disability.

22. PETITIONS

Petitions will be considered by Council in accordance with the provisions of the Council's Petition Scheme. The Council's Petition Scheme is set out at Part 5 of this constitution.

These provisions do not apply to any petition or similar communication concerning planning applications or similar matters which must be presented direct to the Planning Committee.

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

All of these Council Rules of Procedure except Rule 15.6 and Rule 16.2 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 can only be for the duration of the meeting.

23.2 Amendment

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

PART II - MEETINGS AND PROCEEDINGS OF COMMITTEES

24. APPLICATION OF COUNCIL PROCEDURE RULES TO COMMITTEES

All of the Council Rules of Procedure apply to meetings of Full Council. Only Rules 5–13 (with the exception of Rule 9 and subject to Rule 13 being extended to allow a Member to speak more than once on a matter at the discretion of the Chairman), and 14–23 (but not Rule 16.3 and 19.1) apply to meetings of Committees. The Licensing Committee has resolved to adopt the Rules that apply to the proceedings of Committees, panels etc of the Council but separate proceedings will apply to the hearings of its Sub-Committees.

25. APPOINTMENT OF COMMITTEES

The Council shall at the annual meeting appoint such standing committees as set out in standing order 25A and may at any time appoint other committees or working parties as are necessary to carry out the work of the Council but

- (i) shall not appoint any member of a committee to hold office later than the next annual meeting of the Council

and

- (ii) may at any time dissolve or alter the membership of a committee other than a standing committee.

25A. APPOINTMENT OF STANDING COMMITTEES

- (i) The Council shall at its annual meeting appoint the following Standing Committees:-
 - Policy and Resources Committee
 - Planning Committee
 - Overview and Scrutiny Committee
 - Licensing Committee
- (ii) With the exception of the Licensing Committee, the powers and duties of committees and sub-committees and the Planning Committee and the extent of their authority to act are determined by Council on the recommendation of the Policy and Resources Committee or other committee as appropriate. They are incorporated in the Council's Scheme of Delegation.
- (iii) Members may only sit on one of the following committees as a substantive member:
 - Policy and Resources Committee
 - Planning Committee
 - Overview and Scrutiny Committee
- (iv) The Licensing Committee shall have the same membership as the Planning Committee

25B. SUB-COMMITTEES

- (i) Every standing committee appointed may appoint sub-committees for purposes to be specified by that committee.

- (ii) The Chairman of a standing committee shall be an ex officio member of every sub-committee appointed by that standing committee and shall be ex officio chairman of such sub-committee.
- (iii) If the chairman of a sub-committee is absent from a meeting of the sub-committee another member of the sub-committee chosen by the members of the sub-committee present shall preside.
- (iv) With the exception of the Licensing Committee, a standing committee may appoint members who do not serve on that standing committee to serve on a sub-committee.

25C. WORKING PARTIES

- (i) Every standing committee may appoint working parties for purposes to be specified by the committee.
- (ii) The chairman of a standing committee shall have the right to be an ex officio member and Chairman of every working party appointed by that standing committee.
- (iii) If the Chairman of a Working Party is absent from a meeting of the Working Party another member of the Working Party chosen by the members of the working Party present shall preside.
- (iv) A standing committee may appoint members who do not serve on that standing committee to serve on a Working Party.

26. ORDINARY MEETINGS OF COMMITTEES

Ordinary Meetings of Committees must be held on dates and times fixed by the Council. The date and time fixed may be altered by the Chairman of the Committee if, for good reason, he/she considers that the date fixed is inconvenient for the despatch of business.

27. SPECIAL MEETINGS OF COMMITTEES

The Chairman of the Council or the Chairman of the Committee may call a Special Meeting of the Committee at any time. Any Special Meeting can also be

requisitioned by at least one quarter of the whole number of the Members of the Committee, subject to a minimum of three Members. The requisition must be delivered in writing to the Proper Officer and must specify the business which it is proposed to transact at the meeting. The summons for the Special Meeting must set out the specified business to be transacted, and no other business can be considered at that meeting.

28. SUBSTITUTE MEMBERS OF COMMITTEES

28.1 Number

For each Committee where substitution is applicable, the maximum number of substitutes in respect of each Political Group at any meeting shall be 50% of that Group's membership on the relevant Committee, rounded up if necessary, subject to a minimum of two.

28.2 Powers and duties

Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting. Substitute Members shall abide by any voting restrictions which would have applied to the Member for whom they are substituting.

28.3 Substitution

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are the designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) after notifying the Proper Officer by 12 noon on the day of the meeting of the intended substitution.

28.4 Overview and Scrutiny Committee

Substitution shall not apply to the Overview and Scrutiny Committee.

28.5 Where a Member of Overview and Scrutiny Committee has acted as a named substitute at any Policy Committee they may not subsequently scrutinise any decision in which they have been involved.

28.6 **Licensing Committee and Licensing Sub-Committee**

Substitution shall not apply to the Licensing Committee and Licensing Sub-Committee.

29. **INDEPENDENT PERSONS**

29.1 A meeting of the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee must seek and take into account the views of the duly appointed independent persons before it makes its decision on an allegation that has been investigated.

29.2 Two independent persons have been appointed by Council.

30. **CHAIRMEN OF COMMITTEES**

If the Council has not done so at its Annual Meeting every Committee at its first meeting in every year must, as its first item of business, elect a Chairman and appoint a Vice-Chairman.

The Chairman of the Council, by virtue of office, is not eligible to hold office as a Chairman of a Committee during his/her term.

No Member of the Council is entitled to hold the office of the Chairman of more than one Committee at any time.

31. **PROPOSER OF MOTION MAY ATTEND**

A Member of the Council who has proposed a motion which has been referred to any Committee of which he/she is not a Member is entitled to attend the Committee at which the motion is to be considered and to speak at the meeting, but may not vote.

32. **ITEMS FOR AGENDA**

A Member can require that an item be placed on the agenda for a Committee if he/she gives notice of such a request not later than noon six working days preceding the meeting in question; provided that no Member may seek to exercise his/her right under this Rule in relation to an item which he/she has previously had placed on an agenda within the preceding six months, or where the matter has been debated and determined within the preceding six months.

33. **ATTENDANCE OF MEMBER AS OBSERVER**

Non-Members of Committees have the right to attend the meetings as observers. They may speak by invitation only from the Chairman, but may not vote.

34. **SUSPENSION OF PROCEDURE RULES**

All of the Rules of Procedure which apply to meetings of Committees except Rule 15.6 and Rule 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Committee are present and support the suspension. Suspension can only be for the duration of the meeting.

35. **SPEAKING RIGHTS AT PLANNING COMMITTEE**

- (1) At meetings of the Planning Committee the applicant, District Councillor not on the Planning Committee, Parish Council, one supporter and one objector may speak on individual planning applications which the Committee is being invited to determine. Only one speaker per category is allowed to address the Committee.

- (2) People wishing to speak are advised to register with the Committee Secretariat by 11.00 am on the day of the meeting. Speakers have a maximum of three minutes to speak. The District Councillor is normally heard first, the Parish/Town Council second, then the supporter, objector and finally the applicant or agent. There is no public right of reply following the decision of the Planning Committee.

PART III - MISCELLANEOUS MATTERS

36. PLANNING TRAINING

- (1) Any Member selected for service on the Planning Committee and any substitute Member for any of those Committees
 - (i) shall attend a training course on planning law and practice for Members prior to first attending a Planning Committee.
- (2) Any Member who has not attended such a training course.
 - (i) prior to first attending a Planning Committee;
 - (ii) shall automatically cease to be a member of the Committees and Full Council shall appoint a replacement at its next meeting.
- (3) Once a Member becomes disentitled to serve on any of the Committees under this Standing Order a substitute member shall attend any relevant meeting of the Committees until a replacement is selected for the vacant seat on the Committee.
- (4) Any Member
 - (i) becoming disentitled to sit on the Committees by reason of this Standing Order; or
 - (ii) not having been a member of any of the Committees for more than 6 months shall be subject to the provisions of paragraph (1) (i) as if on a

first nomination if they are re-selected for service on any of the Committees as a full member or a substitute.

37. MATTERS OF URGENCY

The Head of Paid Service has delegated authority to take any action he/she considers necessary in the interests of the Council in cases of urgency. He/she where possible must only act after consultation with the Leader of the Council, the Chairman of the appropriate Committee and the relevant Ward Member(s), if any. Any action taken in this way shall be reported to the first available meeting of the Council or relevant Committee, as appropriate.

38. DECLARATION OF INTERESTS BY MEMBERS – INTERESTS OF MEMBERS IN CONTRACTS AND OTHER MATTERS

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Local Members Code of Conduct (“the Code”) requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members’ Code of Conduct as set out in Part 5 - Codes and Protocols Section (a).

39. DISCLOSABLE PECUNIARY INTEREST (DPI)

A DPI is an interest defined in regulations made under the Localism Act 2011 and set out in the Code.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), this Standing Order requires you to leave the room where the meeting is held for the duration of any discussion or voting on that matter.

2: ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, the Policy and Resources Committee, Licensing and Regulatory Committees and Joint Committees (together called meetings). The Licensing Committee has resolved to adopt the Rules for the purpose of its meeting but separate proceedings will apply to the hearing of its sub-committee

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 principal office of Ryedale District Council at Ryedale House, Malton.

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 on the website and at the designated offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

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) any other documents supplied to Councillors in connection with an item, if the Proper Officer thinks fit;

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

7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting 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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

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 RIGHT

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 Council's offices at Ryedale House, Malton.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information - Requirement to Exclude Public

The public may be excluded from meetings 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 be excluded from meetings 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.

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 qualification):

Descriptions of Exempt Information:

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.

Qualifications:

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:-
 - (a) the Complaints Act 1985 [3];
 - (b) the Friendly Societies Act 1974[4];
 - (c) the Friendly Societies Act 1992[5];
 - (d) the Industrial and Provident Societies Acts 1965 to 1978 [6];
 - (e) the Building Societies Act 1986[7];
 - (f) the Charities Act 1993[8].

9. 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[9].

10. Information which:-

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 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 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 will be marked "Exempt" together with the category of information likely to be disclosed.

3: BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. **The framework for decision making**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget and Policy Framework is in place, it will be the responsibility of the Policy and Resources Committee to implement it.

2. **Process for developing the Framework**

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

- (a) In each year the Policy and Resources Committee will publish a programme for establishing the Budget and Policy Framework for the following year. Within this programme, it will identify up to three strategic policy or resource issues on which it wishes to request studies by the Overview and Scrutiny Committees working jointly together.
- (b) Policy studies undertaken by Overview and Scrutiny Committees should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the Policy and Resources Committee.
- (c) The Policy and Resources Committee will draw upon the studies in developing its proposals to Council
- (d) The Budget and Policy Framework to be presented to Council will be available for public consultation for a period of 4 weeks. As part of this public consultation, the Council will hold a “State of the District” debate to set the proposals in context.
- (e) In approving the Budget and Policy Framework presented to it by the Policy and Resources Committee, the Council will also specify the extent of virement

within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Policy and Resources Committee, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

3. Virement

The details of the virement procedures are contained in the Council's Financial Procedure Rules - see Part 4(5).

4. In-Year changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Policy and Resources Committee, the Licensing Committee and the Planning Committee or officers with delegated authority must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by the Policy and Resources Committee, Licensing Committee or the Planning Committee or officer with delegated authority except changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance; and
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

4: OVERVIEW AND SCRUTINY PROCEDURE RULES

1. What will be the number of and arrangements for Overview and Scrutiny Committees?

The Council will have the one Overview and Scrutiny Committee set out in Article 6 and will appoint to it as it considers appropriate from time to time. The Committee may appoint sub-Committees. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist:

- (a) The Council will have one Overview and Scrutiny Committee, which will perform all overview and scrutiny functions on behalf of the Council. The Committee will consist of nine Members of the Council and up to two non-voting co-optees.
- (b) The Overview and Scrutiny Committee will be responsible for:-
 - (i) the performance of review and scrutiny functions on behalf of the Council;
 - (ii) the appointment of such sub-Committees as it considers appropriate to fulfil those review and scrutiny functions;
 - (iii) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, which it has appointed, the determination of which of those sub-Committees will assume responsibility for any particular issue.
- (c) The Overview and Scrutiny Committee will also be responsible for ensuring that the Council complies with its duty concerning Best Value, in accordance with the Local Government Act 1999.
- (d) To consider Best Value Reviews in accordance with the programme of Best Value Reviews determined by the Policy and Resources Committee and to make recommendations on Best Value Review to the Policy and Resources Committee.

- (e) The Overview and Scrutiny Committee may consider policy development and overview. In this context the Committee shall be responsible for:-
- (i) at their first meeting after each annual Council meeting, the receipt of reports from the Policy and Resources Committee on:-
 - (a) “the State of the District”;
 - (b) the Policy and Resources Committee’s priorities for the coming year; and
 - (c) the Council’s performance in the previous year;
 - (ii) the approval of an annual Overview and Scrutiny Work Programme, including the programme of any sub-Committees they appoint so as to ensure that the Committees’ and sub-Committees’ time is effectively and efficiently utilised;
 - (iii) the putting in place of a system to ensure that referrals from Overview and Scrutiny Committees to Full Council and to the Policy and Resources, Licensing and Planning Committees, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
 - (iv) in the event of reports to Full Council and the Policy and Resources, Licensing and Planning Committees, exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the efficient running of Council or Committee business, at the request of the Council or Committee the making of decisions about the priority of referrals made.
- (f) On or after adoption of this Constitution, the Overview and Scrutiny Committee may, after consulting appropriate interested parties, appoint and discontinue Sub-Committees subject to there being a maximum of two Sub-Committees for Committee. The Committee may also determine and amend the terms of reference of the Sub-Committees as appropriate. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chair of the relevant Overview and Scrutiny Committee.

2. **Who may sit on Overview and Scrutiny Committees?**

2.1 Any Councillor may be a Member of an Overview and Scrutiny Committee. However, subject to clause 2.2 below, no Member may sit on the Policy and Resources Committee, Planning Committee or the Licensing Committee while also being a Member of an Overview and Scrutiny Committee. Also, no Member shall scrutinise a decision in which he/she has been directly involved.

2.2 Rule 2.1 above shall not prevent one named Member for each political group who is also a Member of the Overview and Scrutiny Committee from being a substitute for a Member of the same political group who has been appointed to the membership of the Policy and Resources Committee and/or, the Planning Committee PROVIDED THAT if a Member of the Overview and Scrutiny Committee is acting as a substitute on a Policy Committee, that Member may not also act in the capacity as an observer of the Policy Committee at the same meeting under the Overview and Scrutiny Committees rota for shadowing Policy Committees.

3. **Co-optees**

The Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of two people as non-voting co-optees.

4. **Meetings of the Overview and Scrutiny Committees**

There shall be at least five Ordinary Meetings of the Overview and Scrutiny Committee in each year. In addition, Special Meetings may be called from time to time as and when appropriate. A Special Committee meeting may be called by the Chair of an Overview and Scrutiny Committee, by any three Members of a Committee or by the Proper Officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Chairmanship of Overview and Scrutiny Committees**

The Chairmen of Overview and Scrutiny Committees/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and subject to this requirement the Committee/Sub-Committee may appoint such a person as it considers appropriate.

7. **Work Programme**

The Overview and Scrutiny Committee/Sub-Committees will be responsible for setting their own work programmes and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

8. **Agenda Items**

- (a) Any Member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- (b) Any Members of the Council who are not Members of the relevant Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that relevant Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by that Committee.
- (c) The relevant Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, and if it considers it appropriate the Policy and Resources Committee to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Policy and Resources Committee and/or the Council. The Council

and/or the Policy and Resources Committee shall consider the report of the Overview and Scrutiny Committee within two months of receiving it.

9. Policy Development and Overview

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Committees or Sub-Committees may make proposals to the Policy and Resources Committee and for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Overview and Scrutiny Committees

- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will prepare a formal report and submit it to the Proper Officer who will allocate it for consideration by the Policy and Resources Committee or where relevant Licensing or Planning Committee (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or the relevant Policy and Resources Committee, or Planning Committee, as appropriate, then up to one minority report may be

prepared and submitted for consideration by the Council or Policy and Resources Committee with the majority report.

- (c) If the Proper Officer refers the matter to Council, he/she will also serve copies on the Leader of Council and Chairman of the Policy and Resources Committee and where relevant the Licensing or Planning Committee with notice that the matter is to be referred to Council. The Policy and Resources Committee or relevant Licensing or Planning Committee will have three weeks in which to respond to the Overview and Scrutiny report and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Policy and Resources Committee or where relevant the Licensing or Planning Committee to the Overview and Scrutiny proposals.
- (d) The Council or the Policy and Resources Committee or where relevant the Licensing or Planning Committee shall consider the report of the Overview and Scrutiny Committee within six weeks of it being submitted to the proper officer.
- (e) The agenda for each Council, Policy and Resources Committee and Planning Committee meeting shall include an item entitled "Issues arising from Overview and Scrutiny". The reports of Overview and Scrutiny Committees referred to Council or a Committee shall be included at this point in the agenda (unless they have been considered in the context of Council's or the Committee's deliberations on a substantive item on the agenda).
- (f) Only two reports in every three months may be submitted by the Overview and Scrutiny Committee to each of the Policy and Resources and Planning Committees.
- (g) Nothing in this paragraph prevents more detailed liaison between the Policy and Resources or where relevant the Planning Committee and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

11. **Rights of Overview and Scrutiny Committee Members to documents**

In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee have rights of access to documents as Members of the Committee.

12. **Members and Officers giving account**

(a) The Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions (other than quasi judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any Member of the Policy and Resources Committee, Head of Paid Service and/or any Senior Manager to attend before them to explain in relation to matters within their remit:

- (i) any particular decisions 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.

(Note: Save in exceptional circumstances, and in agreement with the Head of Paid Service no officer below Chief Officer or Head of Service or other senior officer reporting directly to a Chief Officer shall be required to appear before an Overview or Scrutiny Committee).

(b) Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the 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 a maximum of ten working days from the date of the original request.

13. Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 12 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.

14. Call-in

Call-in should only be used in exceptional circumstances. These are where Members of the Overview and Scrutiny Committee have evidence which suggests that the Policy and Resources or the Planning Committee did not take decisions in accordance with the principles set out in Article 12 (Decision Making).

In any event call-in will not apply to development control and quasi-judicial decisions such as licensing.

The call-in procedure is as follows:-

- (a) When a decision is made by the Policy and Resources Committee or the Planning Committee or under joint arrangements the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the proper officer.
- (b) That notice 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 ten working days after the publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.

- (c) During that period, the Proper Officer shall call-in a decision for scrutiny by the Committee if so requested in writing signed by the Chairman or any three Members of the Committee, and shall then notify Members of the decision-making Committee of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within ten working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred back to the decision making Committee, a meeting will be convened to reconsider the decision within a further ten working days.
- (e) If following an objection to the decision:
 - (i) the Overview and Scrutiny Committee does not meet in the period set out above or the expiry of the ten working day period, the decision shall take effect on the expiry of that further ten working day period; or
 - (ii) the Overview and Scrutiny Committee does meet but does not refer the matter back to the decision making Committee, the decision shall take effect on the date of the meeting
- (f) If the matter is referred to Full Council, and 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, the Council will refer any decision to which it objects back to the decision making Committee, together with the Council's views on the decision. A meeting of the decision making Committee will be convened to reconsider within ten working days of the Council's request.
- (g) If, following referral to it:-

- (i) The Council does not meet the decision will take effect on the expiry of the period in which the Council meeting should have been held; or
- (ii) The Council does not refer the decision back to the decision making Committee the decision shall take effect on the date of the Council meeting.

EXCEPTIONS

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are that:
 - (i) Save in exceptional circumstances, the Overview and Scrutiny Committee may only call-in five decisions per cycle of meetings;
 - (ii) Where decisions involve expenditure or reductions in service only those over a value of £25,000 per annum may be called-in;
 - (iii) Three Members of the relevant Overview and Scrutiny Committee (from at least two political groups or one group plus non-aligned Members) are needed for a decision to be called-in.

CALL-IN AND URGENCY

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Policy and Resources Committee or the Planning Committee is urgent. A decision will be urgent if the Head of Paid Service is of the opinion that any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Head of Paid Service or his/her nominee, the decision is an urgent one, and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually by the Head of Paid Service or his/her nominee, and a report submitted to Council with proposals for review if necessary.

15. Procedure at Overview and Scrutiny Committee Meetings

- (a) The Overview and Scrutiny Committee and Sub-Committees shall consider the following business:

- (i) Minutes of the last meeting
- (ii) Declarations of interest
- (iii) Consideration of any matter referred to the Committee for a decision in relation to the calling in of a decision
- (iv) Responses of Full Council, the Policy and Resources Committee and Planning Committees 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 (eg 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/Sub-Committee shall prepare a report, for submission to the relevant Committee and/or Council as appropriate and shall make its report and findings public.

5: FINANCIAL PROCEDURE RULES

1. FINANCIAL ADMINISTRATION

- 1.1 The Policy and Resources Committee shall be responsible for regulating and controlling the finances of the Council and related activities within a strategy determined by the Council.
- 1.2 The Council shall appoint a suitably qualified officer, for the purposes of Section 151 of the Local Government Act 1972, who shall be responsible, under the general direction of the Policy and Resources Committee, for the proper administration of the Council's financial affairs.
- 1.3 As the Council's financial adviser, the Chief Financial Officer shall report to the Policy and Resources Committee with respect to the level of resources proposed to be utilised in each financial year and shall keep that Committee informed with respect to the Council's finances and financial performance, and other Committees informed with respect to the financial implications of their activities.
- 1.4 The Chairman of the Policy and Resources Committee or his nominee, shall be entitled to attend meetings of spending Committees and to speak but not to vote on matters relating to annual or supplementary estimates or on any proposal involving expenditure exceeding [an amount to be determined from time to time](#) by the Council.
- 1.5 Each Committee shall be responsible for making, and amending from time to time, such financial regulations as it considers necessary and desirable for the supervision and control of the finances, accounts, income, expenditure and assets of the Council, in conformity with these standing orders.
- 1.6 The Policy and Resources Committee shall be responsible for the observance of the Council's financial standing orders and financial regulations throughout the Council administration.
- 1.7 Each Head of Service or Service Manager is responsible for the accountability and control of staff and the security, custody and control of all other resources,

including plant, buildings, materials, cash and stores appertaining to their service unit.

2. **FINANCIAL PLANNING**

- 2.1 Each Committee shall consider a programme of capital expenditure and estimates of income and expenditure on revenue account for such future periods and such dates as the Council shall require and shall submit them to the Council with such recommendations as they deem necessary including a recommendation as to the Precept for the ensuing year.
- 2.2 Each member of the Council shall be provided with a copy of the proposed capital programme and revenue estimates together with a statement by the Chief Financial Officer of their effect on the Council's finances, as well as an estimate of the overall Council Tax to be levied, at least 3 clear days before the meeting of the Council at which such matters will be considered.

3. **BUDGETARY CONTROL**

- 3.1 It shall be the duty of the Policy and Resources Committee to monitor and regulate the financial performance of the Authority during the currency of each estimate period.
- 3.2 Each Committee may not incur expenditure which cannot be met from the amount provided in the revenue estimates under a head of estimate (including any virement made in accordance with standing order 3.3. below) to which that expenditure would be charged or would result in an overspending in the year on that head of estimate unless a supplementary estimate has been submitted and approved by the Council. This standing order shall apply to a reduction in income as to an increase in expenditure.
- 3.3 Amounts provided under the several heads of the approved annual revenue estimates shall not be diverted to other purposes without the approval of Council save that such approval is not required where the amount does not exceed [a sum determined from time to time](#) by the Council. The Chief Executive, Chief Financial Officer or his nominated deputy shall have authority to divert up to 50% of the sum

so determined without reference to the Policy and Resources Committee, following consultation with the Financial Services Manager.

- 3.4 Each Committee proposing to vary its approved programme of capital expenditure by the addition, deletion or material modification of a project in that programme shall submit a recommendation to the Council. Such approval shall not be required where a Committee wishes to transfer an amount not exceeding [a sum determined from time to time](#) by the Council from one head of the capital programme to another.
- 3.5 Nothing in these standing orders shall prevent a Committee from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972, subject to their action being reported forthwith to the Council.
- 3.6 The inclusion of items in approved revenue estimates or capital programmes shall constitute authority to incur such expenditure save to the extent to which the Council shall have placed a reservation on any such item or items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservation has been removed.
- 3.7 The Policy and Resources Committee shall from time to time keep the Council informed as to the state of the Council's finances and shall report on the accounts of each financial year as soon as practicable after having considered the Management Letter from the Council's external auditors. Such a letter will be circulated to all members of Council three days prior to the meeting with the auditors.
- 3.8 Where the Policy and Resources Committee proposes -
- (i) a new policy, or
 - (ii) a variation of existing policy, or
 - (iii) a variation in the means or time-scale of implementing existing policy

which affects or may affect the Council's finances, it shall submit a report to the Council on such proposals. The report shall be prepared by the proper officer as designated in section 1.3 above.

FINANCIAL REGULATIONS

1. GENERAL

- 1.1 Each Head of Service or Service Manager shall consult the Chief Financial Officer with respect to any matter within his purview which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to a Committee.

2. ANNUAL CAPITAL AND REVENUE BUDGETS

- 2.1 The Chief Financial Officer, in consultation with the Chief Executive and Heads of Service, will prepare a capital programme of schemes involving expenditure on capital account during the forthcoming financial year, and such further period as the Council may require, together with a brief description of each scheme and the estimated cost, and shall submit to the Policy and Resources Committee this detailed capital programme no later than the February Policy and Resources Committee meeting. The Chief Financial Officer shall report to the Policy and Resources Committee upon the financial implications of the programme and the Policy and Resources Committee shall submit the estimates to Council with such recommendations as they deem necessary.
- 2.2 Each Committee of the Council shall not later than the February cycle of meetings each year, consider full details of all estimated expenditure and income for the ensuing financial year, showing under comparative headings:
- (i) the original estimate;
 - (ii) the actual expenditure and income for the last completed year;
 - (iii) the estimate for the forthcoming financial year;
 - (iv) if necessary, any revised or supplementary estimates indicating the probable result for the current financial year.

These annual estimates shall be prepared by the Chief Financial Officer in conjunction with the Chief Executive and Heads of Service.

- 2.3 The Policy and Resources Committee shall then submit full details of all estimates to the Council with such recommendations as they deem necessary, including a recommendation as to the Precept for the ensuing year.
- 2.4 Upon the approval by the Council of a programme of capital expenditure the Chief Executive, Chief Financial Officer and Heads of Service shall be authorised to:
- (a) take steps to enable land required for the purposes of the programme to be acquired in due time; and
 - (b) prepare a scheme and estimate including associated revenue expenditure for approval by the appropriate Committee.
- 2.5 Any proposal to a Committee which would involve the incurring of expenditure during a period in respect of which the Council has approved a budget in the capital programme shall be accompanied by a joint report of the appropriate Head of Service and the Chief Financial Officer indicating the sufficiency or otherwise of the finance provision therefore in the capital programme.
- 2.6 Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of approved income may not be reached, it shall be the duty of the Head of Service concerned after consultation with the Chief Financial Officer to inform the Policy and Resources Committee.
- 2.7 The Chief Financial Officer or his nominated deputy shall furnish the Management Team with regular and timely information relating to the budgetary control of the Council's revenue estimates and capital programme.

3. **ACCOUNTING**

- 3.1 All accounting procedures and records of the Council and its officers shall be determined by the Chief Financial Officer. Where such procedures and records are maintained in a section other than that of Financial Services, he shall, before making any determination, consult the Head of Service.
- 3.2 All accounts and accounting records of the Council shall be compiled by the Chief Financial Officer or under his direction.

3.3 The following principles shall be observed in the allocation of accounting duties:-

- (a) the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
- (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

3.4 The Accounts of the Authority shall comply with the CIPFA Accounting Code of Practice.

4. **ADVANCE ACCOUNTS**

4.1. The Chief Financial Officer shall provide such advance accounts as he considers appropriate for such officers of the Council as may need them for the purposes of defraying petty cash and other expenses. Such accounts shall be maintained in the imprest system.

4.2. Where he considers it appropriate, the Chief Financial Officer shall open an account with the Council's bankers or National Giro for use by the imprest holder who shall not cause such account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on the imprest holder's banking account shall forthwith be reported to the Chief Financial Officer.

4.3. No income received on behalf of the Council may be paid into an advance account but must be banked or paid to the Authority as provided elsewhere in these regulations.

4.4. Payments shall be limited to minor items of expenditure and to such other items as the Chief Financial Officer may approve and shall be supported by a receipted voucher to the extent that the Chief Financial Officer may require.

- 4.5. An officer responsible for an advance account shall, if so requested, give to the Chief Financial Officer a certificate as to the state of his imprest advance.
- 4.6. On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Chief Financial Officer for the amount advanced to him.

5. **AUDIT**

5.1 The Chief Financial Officer shall arrange for a continuous internal audit to carry out an examination of accounting, financial and other operations of the Council.

5.2 For the purposes of Financial Regulations 5.1, relevant officers shall have authority to:-

- (a) enter at all reasonable times on any Council premises or land;
- (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;
- (c) require and receive such explanations as are necessary concerning any matter under examination; and
- (d) require any employee of the Council to produce cash, stores or any other Council property under his control.

5.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the discharge of the functions of the Authority, then the Head of Service or other Service Manager concerned shall forthwith notify the Chief Financial Officer and the Chief Executive who shall take such steps as they consider necessary by way of investigation and report.

6. **BANKING ARRANGEMENTS AND CHEQUES**

6.1 The Policy and Resources Committee will appoint bankers for the Authority.

6.2 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Financial Officer who shall be authorised to open and operate such bank accounts as required, including the National Giro account.

6.3 Cheques on the Council's main banking accounts, including the National Giro account, shall bear the facsimile signature of the Chief Financial Officer or be signed by the Financial Services Manager or other nominated deputy authorised to do so.

7. **CONTRACTS FOR BUILDINGS, CONSTRUCTIONAL OR ENGINEERING WORK**

7.1 The Chief Financial Officer shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council.

7.2 No expenditure on Capital Account shall be incurred unless and until the necessary borrowing powers or financing are available, or some other provision has been made for meeting the expenditure and approved by the Policy and Resources Committee.

7.3 Where contracts provide for payment to be made by instalments, the Chief Financial Officer shall arrange for the keeping of a contract register or registers to show the state on account of each contract between the Council and the contractor, together with any other payments and the related professional fees.

7.4 Payments to contractors on account of contracts shall be made only on a certificate issued by the appropriate Head of Service or Service Manager (or private architect, engineer or consultant where engaged by the Council) as appropriate or by another officer nominated by him in writing for the purpose.

7.5 Subject to the provisions of the contract in each case every extra or variation, shall, unless otherwise evidenced to his satisfaction, be authorised in writing by the appropriate Head of Service or Service Manager (or private architect, engineer or consultant) as may be appropriate or by another officer nominated by him in writing for the purpose, and a copy of all such authorisations shall be passed to the Chief Financial Officer.

- 7.6 Any such extra variation, the estimated additional cost of which exceeds [a sum determined from time to time](#) by the Council shall be reported to the appropriate Committee as soon as practicable.
- 7.7 The final certificate of completion of any contract shall not be issued until the appropriate officer, private architect, engineer or consultant has produced to the Chief Financial Officer a detailed statement of account, and all relevant documents if required.
- 7.8 The Chief Financial Officer shall, to the extent he considers necessary, examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself as to the accuracy of the accounts.
- 7.9 Claims for contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Council Solicitor for consideration of the Authority's legal liability and, where necessary, to the Chief Financial Officer for financial consideration before a settlement is reached.
- 7.10 Where completion of a contract is delayed by more than two-twelfths of the contract period, it shall be the duty of the technical officer concerned to take appropriate action in respect of any claim for liquidated damage and to report his action to the Committee concerned.
- 7.11 In any case where the total cost of any work carried out under a contract exceeds by more than 5% the approved contract sum a report of such cost shall after agreement of the final account, be submitted to the appropriate Committee.
- 7.12 A Head of Service or Service Manager, regularly undertaking by direct labour, work which contractors are able to and willing to undertake, shall periodically compare the cost of a representative selection of such work with the cost of the same work performed by contractors.

8. **ESTATES**

8.1 The Council Solicitor shall maintain a terrier of all properties owned by the Council (except dwellings provided under the Housing Acts) in a form agreed with the Chief Financial Officer, recording the holding Committee, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

8.2 The Council Solicitor shall have the custody of all title deeds under secure arrangements agreed with the Chief Financial Officer.

9. **INCOME**

9.1 The collection of all money due to the Council shall be under the supervision of the Chief Financial Officer.

9.2 Each Head of Service or Service Manager shall furnish the Chief Financial Officer with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required by him to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.

9.3 The Chief Financial Officer shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and the Chief Financial Officer shall have the right to inspect any documents or other evidence in this connection as he may decide.

9.4 All receipt forms, books, tickets and other such items shall be ordered and supplied to service units by the Chief Financial Officer who shall satisfy himself as to the arrangement for their control.

9.5 All money received by an officer on behalf of the Council shall without delay be paid to the Chief Financial Officer or as he may direct, to the Council's banking or National Giro account or transmitted directly to any other body or person entitled thereto. No deduction may be made from such money save to the extent that the Chief Financial Officer may specifically authorise. Each officer who so banks

money shall enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque. On the reverse of each cheque the officer shall enter the name of their service unit, office or establishment.

- 9.6 Personal cheques shall not be cashed out of the money held on behalf of the Council, with the exception of the Cash Facility.
- 9.7 Every transfer of official money from one member of staff to another will be evidenced in the records of the service units concerned by the signature of the receiving officer.
- 9.8 Each Head of Service or Service Manager, before submitting any recommendation for the fixing or variation of any charge to be made by the Council shall first consult with the Chief Financial Officer and at the time of considering such recommendation, receive a joint report of the Chief Financial Officer and the Head of Service or Service Manager on the financial implications of such charge or variation thereof. The Policy and Resources Committee shall submit their recommendations together with the joint report to the Policy and Resources Committee who shall report thereon to the Council.
- 9.9 The Chief Financial Officer in conjunction with the appropriate Head of Service or Service Manager shall submit regular reports on debtors who are in arrears to the Policy and Resources Committee.
- 9.10 The Chief Financial Officer or his nominated deputy shall be authorised to:-
- (a) write from the accounts revenue debts and miscellaneous income debts up to the value to be determined from time to time by the Council providing all necessary recovery arrangements have been exhausted;
 - (b) write from the accounts revenue and miscellaneous debts which cannot be recovered as a result of liquidation or bankruptcy;
 - (c) all other debts which are to be written from the accounts shall be authorised by the Policy and Resources Committee.

9.11 All grant claims and other documents securing money appropriate to the Authority shall be completed by the Chief Financial Officer or other appropriate staff as authorised by the Chief Financial Officer and he or his nominated deputy shall be authorised to sign all relevant financial returns and returns and grant claims as the relevant officer under Section 151 of the Local Government Act 1972.

10. **INSURANCES**

10.1 The Policy and Resources Committee shall appoint the Council's insurers.

10.2 The Chief Financial Officer shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.

10.3 Heads of Service or Service Managers shall give prompt notification to the Chief Financial Officer of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.

10.4 Heads of Service or Service Managers shall forthwith notify the Chief Financial Officer in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police unless otherwise decided.

10.5 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.

10.6 The Chief Financial Officer shall annually, or at such other period as he may consider necessary, review all insurances in consultation with other Heads of Service or Service Managers as appropriate.

10.7 Heads of Service or Service Managers shall consult the Chief Financial Officer and Council Solicitor regarding the terms of any indemnity which the Council is requested to give.

11. **INVENTORIES**

11.1 Inventories shall be maintained by all service units and therein shall be recorded adequate description of furniture, fittings and equipment, plant and machinery, save that the extent to which the property of the Council shall be so recorded and the

form in which the inventories shall be kept is to be determined by the Management Team.

- 11.2 Each Head of Service or Service Manager shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 11.3 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 Head of Service or Service Manager concerned.

12. **INVESTMENTS, BORROWINGS AND TRUST FUNDS**

- 12.1 All investments of money under its control shall be made in the name of the Council or in the name of nominees approved by the Policy and Resources Committee: bearer securities shall be excepted from this regulation but any purchase of such securities shall be reported to the Policy and Resources Committee.
- 12.2 All securities the property of or in the name of the Council or its nominees and the title deeds of all property in its ownership and the title deeds of all property in its ownership shall be held in custody of the Council Solicitor.
- 12.3 All borrowings shall be effected in the name of the Council.
- 12.4 The Chief Financial Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowings of money by the Council.
- 12.5 The Chief Financial Officer shall be authorised to raise and repay loans within the limits which may be prescribed by the Policy & Resources Committee.
- 12.6 The Chief Financial Officer shall report regularly to the Policy & Resources Committee the amounts and terms of all loans raised or renewed, and the amounts of loans repaid since the preceding report.
- 12.7 All trust funds shall wherever possible be in the name of the Council.

- 12.8 All officers acting as trustees by virtue of their official position shall deposit all securities etc, relating to the trust with the Chief Financial Officer unless the deed otherwise provides.
- 12.9 A Treasury Policy Statement shall be prepared by the Chief Financial Officer in accordance with the CIPFA Code for Treasury Management in Local Authorities and shall be presented to the Council for adoption and thereafter its implementation and monitoring shall be delegated to the Policy & Resources Committee.
- 12.10 An annual Treasury Management Strategy shall be prepared by the Chief Financial Officer and approved by the Policy and Resources Committee. This Strategy should include the annual requirements for establishing limits on Council borrowing as required by Section 45 of the Local Government & Housing Act 1989, or any other appropriate legislation as amended.
- 12.11 All money (including cash, investments, borrowings and Trust Funds) in the hands of the council shall be aggregated for the purposes of Treasury Management and shall be under the control of the Chief Financial Officer as the officer designated for the purposes of Section 151 of the Local Government Act 1972.
- 12.12 All Policy and Resources decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer or through him to his staff who shall be required to act in accordance with the Treasury Policy Statement and Treasury Management Strategy.
- 12.13 The Chief Financial Officer shall from time to time report to the Policy and Resources Committee in respect of the operation of the activities of Treasury Management including performance of managed funds as appropriate.

13. **ORDERS FOR WORK, GOODS AND SERVICES**

- 13.1 Official orders shall be in a form approved by the Chief Financial Officer and Council Solicitor and are to be signed only by officers authorised by the appropriate Head of Service who shall be responsible for official orders issued from their service units.

- 13.2 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or such other exceptions as the Chief Financial Officer may approve.
- 13.3 Each order shall conform with the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.
- 13.4 A copy of each order shall, if so required, be supplied to the Chief Financial Officer.
- 13.5 Orders shall not be issued for goods or services, unless the cost is covered by an approved annual or supplementary estimate or by special financial provision.
- 13.6 Official orders shall indicate the nature and quantity of the work or services required and either any contract or agreed prices relating thereto, or an estimate of the cost thereof.
- 13.7 Verbal orders must be confirmed by written orders on the approved form within forty eight hours.
- 13.8 The Chief Financial Officer shall obtain and issue all official order books to the appropriate service unit officers who shall then be responsible for the safe custody and proper use thereof.
- 13.9 Provided at all times that expenditure is allowed for in the annual estimates or any supplementary estimates, goods or services may be ordered and paid for in accordance with [limits of authorisation determined from time to time](#) by the Council *except that* with respect to regular service contracts for goods and services or works specifically authorised by Committee and approved by Council, there shall be no limit.
- 13.10 The Chief Financial Officer or his nominated deputy is authorised to enter into operating and finance leases providing that the necessary revenue or capital budgetary provision has been made in accordance with these Financial Regulations or Standing Orders.

14. **PAYMENT OF ACCOUNTS**

- 14.1 Apart from petty cash and other payments from advance accounts (see F.R. 4.4.) the normal method of payment of money due from the Council shall be by cheque or by electronic means drawn on the Council's banking account or National Giro account by the Chief Financial Officer.
- 14.2 The Head of Service or Service Manager issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources in their service units. Such certification shall be in manuscript by or on behalf of the Head of Service. The names of the officers authorised to sign such records shall be sent to the Chief Financial Officer by each Head of Service together with specimen signatures and shall be amended on the occasion of any change therein.
- 14.3 Before certifying an account, the certifying officer shall, save to the extent that the Chief Financial Officer may otherwise determine, have satisfied himself that:-
- (a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
 - (b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
 - (c) the relevant expenditure has been properly incurred, is within the relevant estimate provision; and
 - (d) appropriate entries have been made in inventories, stores, records or stock books as required;
 - (e) the account has not been previously passed for payment and is a proper liability of the Council;
 - (f) the service to which the payment is to be allocated is clearly shown.
- 14.4 Duly certified accounts shall be passed without delay to the Chief Financial Officer who shall examine them to the extent that he considers necessary for which

purpose he shall be entitled to make such enquiries and to receive such information and explanations as he may require.

- 14.5 Any amendment to an account shall be made in ink and initialled by the officer making it, stating briefly the reasons where they are not self-evident.
- 14.6 The Chief Financial Officer shall be authorised to pay all accounts which he is satisfied are properly payable after certification as set out in the foregoing regulations. The Chief Financial Officer may select any account for investigation in depth and may call for such further information as he considers necessary to satisfy himself as to the validity of the order giving rise to the account and on any other matter relating to that account. If he is not satisfied with the result of such investigation he shall report thereon to the next meeting of the Policy and Resources Committee.
- 14.7 Each Head of Service or Service Manager shall, as soon as possible after 31 March and not later than 21 April in each year, notify the Chief Financial Officer of all outstanding expenditure relating to the previous financial year.

15. **SALARIES, WAGES AND PENSIONS**

- 15.1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Chief Financial Officer under arrangements approved and controlled by him.
- 15.2 The Head of Corporate Services shall notify the Chief Financial Officer as soon as possible and in the form prescribed by him, of matters affecting the payment of such emoluments, and in particular:-
- (a) appointments, resignations, secondments and transfers;
 - (b) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (c) information necessary to maintain records of service for superannuation.

Each Head of Service or Service Manager shall notify the Chief Financial Officer as soon as possible and in the form prescribed by him of all other matters affecting the payment of such emoluments, and in particular:-

- (a) dismissals and suspensions;
- (b) absences from duty for sickness or other reason, apart from approved leave;
- (c) information necessary to maintain records for income tax, national insurance and the like.

15.3 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.

15.4 All time records or other pay documents shall be in a form prescribed or approved by the Chief Financial Officer and shall be certified in manuscript by or on behalf of the Head of Service or Service Manager. The names of officers authorised to sign such records shall be sent to the Chief Financial Officer by the Head of Service or Service Manager, together with specimen signatures and shall be amended on the occasions of any change.

15.5 The maintenance of national insurance and taxation records shall be the responsibility of the Chief Financial Officer.

15.6 All matters relating to the Superannuation Scheme of the Council shall be referred to the Policy and Resources Committee.

15.7 The Chief Financial Officer shall be authorised to implement agreed salaries and wage awards as notified by the appropriate National or Provincial Joint Council or Joint Negotiating Committee and either he or the Head of Corporate Services shall report on the effect of such awards to the next meeting of the Policy and Resources Committee.

16. **SECURITY**

16.1 Each Head of Service or Service Manager is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc,

under their control. They shall consult the Chief Financial Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

16.2 Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without his express permission.

16.3 Keys to safes and similar receptacles are to be carried on the person of those responsible at all times; the loss of any such keys must be reported to the Chief Financial Officer forthwith.

16.4 The Head of Environment, Streetscene and Facilities shall be responsible for maintaining proper security and privacy in respect of information held in the computer installation or for its use.

17. **STOCKS AND STORES**

17.1 Each Head of Service or Service Manager shall be responsible for the care and custody of the stocks and stores held in their service unit.

17.2 Stores records shall be kept in a form approved by the Chief Financial Officer.

17.3 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Committee concerned.

17.4 Heads of Service and Service Managers shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.

17.5 The Chief Financial Officer shall be entitled to receive from each Head of Service or Service Manager such information as he requires in relation to stores for the accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the Policy & Resources Committee decides otherwise in a particular case.

18. **TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCE**

- 18.1 All claims for payments or car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Chief Financial Officer, duly certified in a form approved by him, made up to a specified day of each month, within seven days thereof. The names of officers authorised to sign such records shall be sent to the Chief Financial Officer by each Head of Service with specimen signatures and shall be amended on the occasion of any change.
- 18.2 Payments to members, including co-opted members of the Council or its Committees who are entitled to claim travelling or other allowances will be made by the Chief Financial Officer upon receipt of the prescribed form duly completed. All claims for a financial year are to be submitted within one month of 31 March.
- 18.3 The certification by or on behalf of the Chief Financial Officer shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 18.4 Officers' claims submitted more than six months after the expenses were incurred will be paid only with express approval of the Chief Financial Officer.

19. **PROBITY**

- 19.1 The Chief Financial Officer shall be responsible for the maintenance and review of a Fraud and Corruption Policy and shall provide a report from time to time to the Policy and Resources Committee concerning the adherence of the Council to the Policy and variations thereon.
- 19.2 The Council Solicitor shall maintain a register of the declaration of members and senior officers interests in accordance with the Accounting Codes of Practice and appropriate legislation.

6: FINANCIAL STANDING ORDERS AND FINANCIAL REGULATIONS

CONTRACT STANDING ORDERS

ESTIMATES

CSO	4.1	£50,000
CSO	4.2	£50,000

TENDERING

CSO	8.1	£50,000
CSO	8.2	£50,000
CSO	9.1	£50,000
CSO	9.2	£50,000
CSO	10.1	£50,000

COMPETITION REQUIREMENTS FOR CONTRACTS BELOW A SPECIFIED VALUE

CSO	14.1	£5,001 & £50,000
CSO	14.2	£5,000

SUBCONTRACTS AND NOMINATED SUPPLIERS

CSO	19.1.1	£50,000
CSO	19.1.3	£50,000

ENGAGEMENT OF CONSULTANTS

CSO	20.1.4	£50,000
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OPENING TENDERS

CSO	23.1.2	£50,000
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FORMALITIES

CSO	27.1.3.1	£5,000
CSO	27.1.3.2	£5,000
CSO	27.1.3.3	£5,000
CSO	27.1.4	£5,000
CSO	27.1.5.1	£50,000
CSO	27.1.5.2	£50,000

CSO	27.1.5.3	£50,000
CSO	27.1.5.4	£50,000
CSO	27.1.6	£50,000

BONDS

CSO	29	£150,000
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FINANCIAL STANDING ORDERS

FINANCIAL ADMINISTRATION

FSO	1.4	£50,000
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BUDGETARY CONTROL

FSO	3.3	£50,000
FSO	3.4	£0

FINANCIAL REGULATIONS

CONTRACTS - VARIATION ORDERS

FR	7	£5,000
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INCOME

FR	9.10	£5,000
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ORDERS FOR WORK, GOODS AND SERVICES

FR	13.9	
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- (a) Cost not exceeding £5,000 authorised by Service Managers.
- (b) Cost not exceeding £25,000 authorised by Heads of Service.
- (c) Cost between £25,001 and £50,000 authorised by the Chief Executive or Chief Financial Officer with approval of the Chairman of the appropriate Committee.
- (d) Cost exceeding £50,000 to be authorised by the appropriate Committee and, if necessary, tenders invited in accordance with Standing Orders relating to Contracts.

7: CONTRACT PROCEDURE RULES

CONTRACT STANDING ORDERS (CSO)

1. Introduction

The purpose of Contract Standing Orders is to set clear rules for the procurement of goods, works and services for the Council. This will ensure a system of openness, integrity and accountability with probity and transparency of the process involved in procurement. In turn this will lead to better value for money and give confidence that the Council is fulfilling its fiduciary responsibilities.

Any dispute or difference as to the interpretation of Contract Standing Orders shall be resolved by the Council Solicitor.

2. Compliance with Standing Orders

2.1 Every contract whether made by or on behalf of the Council must comply with these Standing Orders and the Council's Financial Standing Orders and no exception from any of the following provision of these Standing Orders shall be made unless authorised by the appropriate Head of Service or Service Manager acting under delegated powers or the Council's Policy and Resources Committee.

2.2 Where a Head of Service or Service Manager intends to authorise an exception under Contract Standing Order he/she shall, prior to doing so, arrange for a report to be prepared and submit it for consideration by the Council Solicitor and the Chief Financial Officer. The appropriate Head of Service or Service Manager shall not authorise an exception without having obtained comments and a recommendation from the Council Solicitor and the Chief Financial Officer. If the appropriate Head of Service or Service Manager decides, having considered the comments and recommendation made, to authorise an exception, then that Head of Service or Service Manager shall record the reasons for so doing and forward a copy of the decision and reasons to the Council Solicitor. If the recommendation of the Council Solicitor or the Chief Financial Officer is that an exception should not be made and the Head of Service or Service Manager still wishes to proceed then that Head of Service or Service Manager shall refer the matter to the Council's Policy and Resources Committee for a decision.

2.3 The Council Solicitor shall maintain a register of all such exceptions.

2.4 National or European Union legislation overrides these Standing Orders.

3. **Conduct of Officers and Members**

3.1 Members must conform to the Ryedale District Council Members Code of Conduct.

3.2 Any officer, member or agent of the Council, whilst acting on the Council's behalf in relation to any contractual matter directly or indirectly concerning the Council, shall conduct themselves in such a manner that the independence and integrity of the Council's procedures are at all times maintained and are seen to be maintained. Failure to observe such standards of conduct will be regarded by the Council with the utmost gravity.

4. **Estimates**

4.1 Before entering into a contract for the execution of any work or the provision of any services estimated to exceed [an amount to be determined from time to time](#) by the Council an estimate in writing of the probable expense of executing the work in a suitable manner and of the annual expense of maintaining the work shall be obtained.

4.2 On completion of a contract to which this contract standing order applies the Chief Financial Officer or other person shall report the final cost of such work in any case where the total cost exceeds by more than 10% the approved contract sum in the case of contracts of the value or [an amount to be determined from time to time](#) by the Council or less and by more than 5% in any other case.

5. **Pre Contract Requirements**

5.1 Before entering into a contract with any firm, the appropriate Head of Service or Service Manager must:-

5.1.1 be satisfied that a Specification which will form the basis of the contract/arrangement, has been prepared; and

- 5.1.2 have prepared and documented an estimate of the cost of the contract/arrangement, including where appropriate any maintenance costs;
- 5.1.3 be satisfied about the technical capability of such firm; and
- 5.1.4 ensure that all evaluation criteria have been determined in advance; and
- 5.1.5 ensure that these Standing Orders have been complied with, and that the proposed contract represents value for money

6. **E-Commerce**

Nothing in the Contract Procedure Rules shall prevent:-

- a) invitations to quote or tender being issued by use of the internet. A Head of Service may publish invitation to tender notices on appropriate internet web sites in substitution or in addition to publication in newspapers or trade journals.
- b) receipt of quotations or tenders by use of the internet provided the Head of Service and Chief Financial Officer have agreed that suitable privacy and security mechanisms are in place for the receipt and opening of such submissions and where an electronic tendering system is available which meets the satisfaction of the Monitoring Officer and Chief Financial Officer and is auditable.

Tenders may be submitted by electronic means provided that:

- a) evidence that the transmission was successfully completed is obtained and recorded;
- b) each tender submitted electronically is deposited in a secure mailbox before the return date, and;
- c) electronic tenders are kept in a separate secure folder until the deadline is passed for receipt of tenders.

7. **Selective Tendering Procedure - Approved list of Tenderers**

- 7.1 This Standing Order applies if the Council Solicitor has decided that a list will be kept of the firms to be invited to tender/ quote for contracts.

7.2 Any such list must:-

7.2.1 contain the names of all firms who wish to be included in it, who comply with the criteria set for inclusion, and are approved by the Council Solicitor;

7.2.2 indicate whether each firm is approved for all or only some of the specified values or categories;

7.2.3 be kept, maintained and administered by the Council Solicitor.

7.3 At least four weeks before a list is first compiled, notices inviting applications for inclusion on it must be published in one or more local newspapers circulating in the district, and in one or more publications circulating amongst firms who undertake contracts of the specified values or categories.

7.4 The list must be amended as required (including deletions due to any circumstances affecting any firm's ability to perform certain contracts), and must be reviewed from time to time in accordance with the procedures set out in Standing Order 7.3

7.5 Amendments to any list will be recorded by the Council Solicitor.

7.6 Invitations to tender must be limited to firms whose names are on the list produced under this Standing Order, and must be sent to at least four of those firms selected, or, if there are fewer than four such firms, to all firms. If less than four firms are invited to tender, then the appropriate Head of Service or Service Manager must keep a record of the reasons for this.

7.7 The approved list shall be amended as required from time to time as part of a process of continual review. Overall review of the lists shall take place at intervals of not more than three years.

8. **Restricted Tendering Procedure**

8.1 This Standing Order applies to contracts with an estimated value of [a sum to be determined from time to time](#) by the Council, and where no list has been approved

under Standing Order 7, or if the Council Solicitor considers that Standing Order 7 is inappropriate.

- 8.2 Public Notice must be given in one or more local newspapers circulating in the district, and, if the estimated value of the contract exceeds [an amount to be determined from time to time](#) by the Council, in one or more newspapers or journals circulating among firms who undertake such contracts. The notice must set out details of the proposed contract, and invite firms interested to apply within such period as may be specified, (being not less than ten days), for permission to tender. All responses to advertisements must include the completion of an application form. Clear instructions shall be given in the advertisement regarding the arrangements for the delivery and receipt of applications with particular reference to a deadline for receipt. The rules for the receipt of applications will be the same as that for tenders as set out in Standing Order 20.
- 8.3 After the expiry of the period specified in the public notice, invitations to tender stating details of the proposed contract and the last date for receipt of tenders must be sent to at least four of the firms who applied for permission to tender selected by the appropriate Head of Service or Service Manager or, if fewer than four firms have applied and are considered suitable, to all such firms. If less than four firms are invited to tender, the appropriate Head of Service or Service Manager must keep a record of the reasons for this.

9. **Open Tendering**

- 9.1 This Standing Order applies to contracts with an estimated value of [an amount to be determined from time to time](#) to by the Council or more, if no appropriate Approved List exists or if the Council Solicitor considers that Standing Order 6 and 7 are inappropriate.
- 9.2 At least 10 days' public notice shall be given in one or more local newspapers and also, wherever the value or amount of the contract exceeds [an amount to be determined from time to time](#) by the Council or wherever the Council intends to bind for the contract in one or more newspapers or journals circulating amongst such persons or bodies as undertake such contracts. The notice shall express the nature and purpose of the contract, state where further details may be obtained,

invite tenders for its execution and state the last date and time when tenders will be received.

10. **Negotiated Tendering Procedure**

10.1 This Standing Order applies to contracts with an estimated value of [an amount to be determined from time to time](#) by the Council or more, if the Council Solicitor considers that Standing Orders 6, 7, and 8 are inappropriate.

10.2 The appropriate Head of Service or Service Manager acting under delegated powers may invite or authorise the invitation of tenders from firms by way of a negotiated procedure. Prior to using a negotiated procedure under this Contract Standing Order, the appropriate Head of Service or Service Manager shall arrange for a report to be prepared and submit it for consideration to the Council Solicitor and the Chief Financial Officer. The Head of Service or Service Manager concerned shall not proceed without having obtained the comments and a recommendation from the Council Solicitor and the Chief Financial Officer. If the Head of Service or Service Manager concerned decides, having considered the comments and recommendations made, to proceed, then that Head of Service or Service Manager shall record the reasons for so doing and forward a copy of the decision and reasons to the Council Solicitor. If the recommendation of the Council Solicitor or the Chief Financial Officer is that the Head of Service or Service Manager should not proceed as proposed, and the Head of Service or Service Manager concerned still wishes to proceed then that Head of Service or Service Manager shall refer the matter to the Council's Policy and Resources Committee for a decision. The negotiated procedure can only be used where the appropriate Head of Service or Service Manager can show that:

10.2.1 one of the procedures set out in Standing Order 7, 8 or 9 has been used and resulted in unacceptable or irregular tenders or no tenders or no appropriate tenders; or

10.2.2 exceptionally where the nature of the procurement or risks involved does not permit prior overall pricing; or

10.2.3 the nature of the procurement is such that a precise specification cannot be drawn up; or

10.2.4 a design contest is appropriate to the scheme;

10.2.5 when the procurement forms part of a project or service that is being delivered under the Council's General Principles for Commissioning.

10.3 the appropriate Head of Service or Service Manager must register the proposed use of this Standing Order with the Council Solicitor in accordance with procedures determined from time to time by him/her.

11. **Single Tendering**

11.1 Where the Head of Service or Service Manager duly authorised in that behalf, have decided in the best interests of the Council that a tender be invited from a contractor selected by them, the Council may enter into a contract with the contractor

11.2 Prior to using the single tender procedure under this Contract Standing Order, the appropriate Head of Service or Service Manager shall arrange for a report to be prepared and submit it for consideration to the Council Solicitor and the Chief Financial Officer. The Head of Service or Service Manager concerned shall not proceed without having obtained the comments and a recommendation from the Council Solicitor and the Chief Financial Officer. If the Head of Service or Service Manager concerned decides, having considered the comments and recommendations made, to proceed, then that Head of Service or Service Manager shall record the reasons for so doing and forward a copy of the decision and reasons to the Council Solicitor. If the recommendation of the Council Solicitor or the Chief Financial Officer is that the Head of Service or Service Manager should not proceed as proposed, and the Head of Service or Service Manager concerned still wishes to proceed then that Head of Service or Service Manager shall refer the matter to the Council's Policy and Resources Committee for a decision.

12. **Serial Tendering**

12.1 This Standing Order shall apply where the Head of Service or Service Manager duly authorised in that behalf, have decided that tenders for a contract where that

contract forms part of a serial programme, are to be obtained by negotiation with a Contractor.

12.2 The basis of the negotiation shall be the rates and prices contained in an initial contract awarded competitively following an invitation to tender in accordance with Standing Orders 7, 8, 9, 10 or 11 and shall be documented accordingly.

12.3 The Service Unit Manager shall provide copies of the above documentation to the Council Solicitor who shall keep the documentation with the Initial contract documents.

13. **Framework Contracts**

13.1 The purchase of goods or materials and the procurement of works or supply of services, where a Framework Arrangement or Contract is let through or on behalf of a public body, consortium, association or similar body provided that tenders or quotations are invited and contracts placed in accordance with procedures which are equivalent to these Contract Procedure Rules and also comply with any national or EU legislation, is permitted. A Framework Contract to which more than one contractor is party must provide for competition between the contractors in respect of any Call Off above £50,000.

14. **Competition Requirements for Contracts below a Specified Value**

14.1 The appropriate Head of Service or Service Manager must invite at least 3 written quotations for a proposed contract within [a value range to be determined from time to time](#) by the Council. If 3 quotations cannot be obtained due to lack of suitable firms prepared to quote, or where the appropriate Head of Service or Service Manager feels that this is inappropriate in the interests of the efficient management of the service, then that Head of Service or Service Manager must keep a record of the reasons for this.

14.2 For contracts valued below [an amount to be determined from time to time](#) by the Council, the Head of Service or Service Manager concerned should proceed in a manner most expedient to the efficient management of the service, having kept a record of the reason for so doing.

- 14.3 Where there is an Approved List of Tenderers in existence then that Approved List must be used as the source of providing the names of contractors from whom quotations are sought.
- 14.4 Records to be kept under this Standing Order shall be in a format to be determined by the Chief Financial Officer.
15. **Exception for Proprietary Articles etc**
- 15.1 Nothing in these contract standing orders shall require tenders to be invited.
- 15.1.1 in relation to the supply of goods and materials and any necessary ancillary work in relation thereto if effective competition is prevented by government control or
- 15.1.2 if the goods or materials to be purchased:
- 15.1.2.1 are proprietary articles or are sold only at a fixed price and no reasonably satisfactory alternative is available;
- 15.1.2.2 are manufactured by one manufacturer only;
- 15.2 The prices of the goods or materials are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.
- 15.3 Obtained by a consortium of which the Council is a member.
- 15.4 Parts for existing machinery or plant.
- 15.5 Required as a matter of urgency so as not to permit compliance with the requirements of competition.
- 15.6 The execution of work where the work to be executed is required as a matter of urgency.
- 15.7 The execution of work either:

15.7.1 By professional persons in which the personal skill of those persons is of primary importance.

15.7.2 Where the work is of a specialist nature in which the skill of the contractor is of primary importance.

15.8 Prior to using an exception under this Contract Standing Order, the appropriate Head of Service or Service Manager shall arrange for a report to be prepared and submit it for consideration to the Council Solicitor and the Chief Financial Officer. The Head of Service or Service Manager concerned shall not authorise the exception without having obtained the comments and a recommendation from the Council Solicitor and the Chief Financial Officer. If the Head of Service or Service Manager concerned decides, having considered the comments and recommendations made, to authorise the exception, then that Head of Service or Service Manager shall record the reasons for so doing and forward a copy of the decision and reasons to the Council Solicitor. If the recommendation of the Council Solicitor and the Chief Financial Officer is that the Head of Service or Service Manager should not authorise the exception as proposed, and the Head of Service or Service Manager concerned still wishes to do so then that Head of Service or Service Manager shall refer the matter to the Council's Policy and Resources Committee for a decision.

16. Tender in Excess of Estimate

16.1 Where the tender or quotation exceeds the estimate obtained in accordance with the contract standing order 4 by an amount not exceeding 5% then provided that the increase does not require either:

16.1.1 a supplementary estimate in which case the matter shall first be reported to the Policy and Resources Committee or

16.1.2 a transfer of vote under financial standing order 5 in which case the matter shall first be reported to the appropriate Committee.

16.2 Such tender may nevertheless be accepted provided that any such action under this paragraph shall be reported to the Policy and Resources Committee.

17. **Acceptance of Lowest Tender or Highest**

17.1 All Tenders may be accepted by the appropriate Head of Service, provided that:

- (a) It is within the approved budget;
- (b) The Head of Service notifies award of the contract to:
 - (i) the Chief Financial Officer and relevant Committee Chairman; or
 - (ii) in the case of a tender which falls above EU Procurement Levels the relevant Policy Committee.
- (c) Where the contract value exceeds EU Procurement Levels the contract is not awarded until the required time period has elapsed.
- (d) The identity of any Tenderer other than the Tenderer submitting the tender accepted shall not be disclosed to any other Tenderer.

18. **Acceptance of Other than Lowest or Highest Tender**

18.1 A tender except a tender by sample other than the lowest tender if payment is to be made by the Council or other than the highest tender if payment is to be received by the Council shall not be accepted unless:

18.1.1 The appropriate Head of Service or Service Manager arrange for a report to be prepared and submit it for consideration to the Council Solicitor and the Chief Financial Officer. The Head of Service or Service Manager concerned shall not authorise the acceptance of such a tender without having obtained the comments and a recommendation from the Council Solicitor and the Chief Financial Officer. If the Head of Service or Service Manager concerned decides, having considered the comments and recommendations made, to authorise acceptance, then that Head of Service or Service Manager shall record the reasons for so doing and forward a copy of the decision and reasons to the Council Solicitor. If the recommendation of the Council Solicitor and the Chief Financial Officer is that the Head of Service or Service Manager should not authorise acceptance as proposed, and the Head of Service or Service Manager concerned still wishes to do so then that Head of Service or Service

Manager shall refer the matter to the Council's Policy and Resources Committee for a decision.

- 18.2 Where a tender by sample other than the highest or lowest as the case may be is accepted or recommended for acceptance the Policy and Resources Committee accepting or recommending the same shall record the fact in its minutes.

19. Subcontracts and Nominated Suppliers

- 19.1 Where a subcontractor or supplier is to be nominated to a main contractor then:

19.1.1 Where the estimate amount of the subcontract or the estimated value of goods or materials to be supplied by the nominated supplier exceeds [an amount to be determined from time to time](#) by the Council then unless the Chief Officer concerned is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders no fewer than four tenders shall be invited by the Chief Officer concerned for the nomination in accordance with the methods described in contract standing orders 6-10 and shall be dealt with in accordance with the arrangements prescribed in contract standing orders 20 and 21 provided that the Chief Officer concerned may invite a tender from such subcontractor or supplier as may be available when he is satisfied that it is not reasonably practicable to follow any of the above methods;

19.1.2 the terms of the invitations shall require an undertaking by the tenderer that if he is selected he will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods or materials included in the subcontract;

19.1.3 such tenders not exceeding [an amount to be determined from time to time](#) by the Council shall be obtained by the Chief Officer concerned;

19.1.4 the Chief Officer concerned is authorised to nominate to the main contractor the subcontractor or supplier whose tender obtained in accordance with either of the preceding subparagraphs is in his opinion the most satisfactory

provided that where the tender is not the lowest received the circumstances shall be reported to the appropriate Committee.

20. **The Engagement of Consultants**

20.1 It shall be a condition of the engagement of the services of any architect, engineer, surveyor or other consultant who is to be responsible for the supervision of a contract that in relation to that contract he shall

20.1.1 comply with the requirements of these contract standing orders subject to the modification that the procedure to be followed in inviting and opening tenders shall be approved in advance by the Council Solicitor

20.1.2 at any time during the carrying out of the contract produce to the Council Solicitor or other appropriate Head of Service or Service Manager on request the record maintained by him in accordance with the requirements of the appropriate Head of Service or Service Manager.

20.1.3 on completion of a contract transmit such record to the appropriate Head of Service or Service Manager.

20.1.4 within seven days of the date on which he shall first become aware that the estimated cost of the works is likely to be exceeded by an amount of more than 10% in the case of contracts of the value or [an amount to be determined from time to time](#) by the Council or less and more than 5% in any other case notify the appropriate Head of Service or Service Manager.

20.2 Not except in the case of:

20.2.1 special proprietary articles or processes or work not open to public tender or

20.2.2 goods supplied or work carried out through any consortium of local authorities of which the Council is a member

20.2.3 specify any single one person firm or company as subcontractor for carrying out the work or supplying goods and this subparagraph shall apply as a standing instruction to all officers of the Council.

21. **Post Tender Negotiations**

21.1 This Standing Order relates to negotiations after the receipt of a quotation or tender submitted in accordance with these Standing Orders.

21.2 Negotiations can only be commenced after the Chief Financial Officer and the Council Solicitor, have given the relevant Head of Service or Service Manager written approval of the procedure(s) to be adopted to negotiate. A contract can be entered into only when the Chief Financial Officer and the Council Solicitor have given written approval to the outcome of the negotiations.

22. **Receipt and Custody of Tenders**

22.1 Where tenders are invited every notice of invitation shall state that no tender will be considered except in a plain sealed envelope of a distinctive colour supplied by the Council and securely sealed which shall bear the words "Ryedale District Council Tender for - "followed by the subject to which the tender relates and the closing date and be addressed to the Chief Executive but shall not bear any name or mark indicating the identity of the sender.

22.2 Such envelopes shall as soon as they are received by the Chief Executive be endorsed with the date and time of receipt and remain in the custody of the Chief Executive or other office designated by him until the time appointed for their opening.

23. **Opening Tenders**

23.1 Tenders invited under these contract standing orders shall be opened at one time and only in the presence of:

23.1.1 the Chairman of the appropriate Committee or in his absence such other Member of the Council as may have been designated by him; and

23.1.2 the Chief Executive or the Council Solicitor or an officer designated by either of them and the Chief Executive shall maintain a register of all such tenders received and the Member in whose presence the tenders are

opened shall initial the register provided that the presence of the Chairman or other Member shall not be required where the estimated cost of the work or of the goods or materials to be supplied does not exceed [an amount or value to be determined from time to time](#) by the Council.

24. Late Tenders

No tender shall be considered unless received in compliance with the terms of and by the time stipulated in the advertisement or other invitation.

25. Alterations to Tenders

If any person firm or company who having submitted to the Council a tender shall subsequent to the opening of tenders make application to amend such tender other than may be provided for in the tender documents then such application shall disqualify that tender from further consideration by the council provided that arithmetical errors may be corrected except in cases where such tender has been accepted and the alteration would increase the amount thereof in the case of payment by the Council or would decrease the amount thereof in the case of payment to the Council.

26. Standard Form

26.1 The Council's standard form of tender as settled by the Council Solicitor shall be used for the purpose of inviting tenders.

26.2 It should be clearly stated in all documents of tender that the Council reserves the right not to accept any of the tenders or to accept a tender other than the lowest in the case where payment is made by the Council or of the highest in the case where payment is made to the Council.

26.3 A printed copy of these contract standing orders shall be enclosed with each form of tender issued and given to any architect engineer surveyor or other consultant not being an officer of the Council who is to be responsible for the supervision of a contract.

27. **Formalities**

27.1 The following provisions shall apply to the formalities of the making of contracts:

27.1.1 no Member of the Council shall make orally or in writing any contract on behalf of the Council;

27.1.2 no officer other than the Council Solicitor, a Head of Service or Service Manager or any senior officer of a department authorised by the Head of Service or Service Manager concerned for this purpose shall make orally or in writing any contract on behalf of the Council;

27.1.3 the Council Solicitor, a Head of Service or Service Manager or any such officer authorised under paragraph 24.2 above concerned shall not make orally or in writing and the Council Solicitor shall not make orally any contract on behalf of the Council other than a contract for:

27.1.3.1 the supply of goods or materials for the execution of work of a value not exceeding [an amount to be determined from time to time](#) by the Council

27.1.3.2 services to be performed or provided by a person other than an employee of the Council for consideration of or which will not exceed [an amount or value to be determined from time to time](#) by the Council

27.1.3.3 the sale of goods or materials of a value not exceeding [an amount or value determined by the Council](#) and any oral contract shall be confirmed by written order.

27.1.4 where a contract for the sale or supply of goods or materials or the execution of any works or the provision or performance of otherwise than by an employee of the Council services will exceed [an amount or value to be determined from time to time](#) by the Council and a formal written contract is not required under paragraph 25.1.5 hereof the accepted tender or quotation and other relevant documents together with a letter of acceptance under the hand of the Council Solicitor may constitute the contract for the

purpose of this contract standing order provided that a formal written contract may be prepared in any such case if in the opinion of the Council Solicitor it is desirable notwithstanding that it is not required in subparagraph 25.1.5 below;

27.1.5 a formal written contract under the hand of the Council Solicitor shall be required where:

27.1.5.1 Goods or materials of a value exceeding [an amount to be determined from time to time](#) by the Council are to be supplied other than at one time

27.1.5.2 Work is to be executed the value of which will exceed [an amount to be determined from time to time](#) by the Council

27.1.5.3 Services are to be performed or provided by any person other than an employee of the Council the consideration for which will exceed [an amount or value to be determined from time to time](#) by the Council

27.1.5.4 Goods or materials of a value exceeding [an amount to be determined from time to time by the Council](#) are to be sold by the Council;

27.1.6 all written contracts exceeding [an amount or value to be determined from time to time](#) by the Council in value or amount shall on being signed be entered in a register kept for that purpose;

27.1.7 no contracts for the sale or purchase of land or any interest in land or for the granting or taking of any lease or tenancy or for the granting of any licence in respect of the use of land shall be made by any officer other than the Council Solicitor and any such contract shall be in writing provided that this subparagraph shall not apply to tenancies of residential accommodation pursuant to the Housing Acts or to other tenancies of residential accommodation in respect of which rent cards are issued.

28. Particulars to be included in Contracts

28.1 Every contract made under paragraph 25 of these contract standing orders shall:

28.1.1 specify:

28.1.1.1 the work materials matters or things to be furnished had or done;

28.1.1.2 the price to be paid with a statement of discounts or other deductions; and

28.1.1.3 the time in which the contract is to be performed;

28.1.2 provide for liquidated damages to be determined in respect of each contract by the Council Solicitor in consultation with the Chief Executive or Chief Financial Officer to be paid by the contractor in case the terms of the contract are not duly performed;

28.1.3 provide that should the contractor fail to deliver the goods or materials or any portion thereof or perform any services within the times specified in the contract the Council without prejudice to any other remedy for breach of contract shall be at liberty to determine the contract either wholly or to be extent of such default and to purchase other goods or materials or services as the case may be of the same or similar description to make good such default or in the event of the contract being wholly determined the goods or materials remaining to be delivered;

28.1.4 the clause required by the paragraph 25.3 above shall further secure that the amount by which the cost of so purchasing other goods materials or services exceeds the amount which would have been payable to the contractor in respect of the goods or materials as the case may be replaced by such purchase if they had been delivered in accordance with the contract shall be recoverable from the contractor.

29. **Bonds**

In the case of contracts for the Execution of any work where the amount or value is estimated to exceed [an amount to be determined from time to time](#) by the Council the Management Team where they consider it desirable may require and take a bond or other sufficient security for the due performance of the contract the amount of such bond or security to be determined by the Management Team.

30. **Assignment and Statutes Etc**

30.1 The appropriate Head of Service or Service Manager must ensure that the Contract contains provisions relating to:-

30.1.1 in the performance of the contract, the Contractor must not discriminate on the grounds of race contrary to statutory requirements;

30.1.2 the Contractor must provide any information reasonably requested relating to the performance of the contract to ensure that the Council meets its statutory obligations under Section 71 of the Race Relations Act 1976;

30.1.3 in the performance of the contract, the Contractor must comply with the requirements of the Health and Safety at Work etc Act 1974 and of any other relevant Acts, Regulations, Orders or Rules of Law pertaining to health and safety;

30.1.4 the contractor must not sub-contract the works or any part of the works, without the prior written consent of the appropriate Head of Service or Service Manager without prejudice, and subject to any other condition of the contract, no sub-letting by the contractor will relieve the contractor of its liability to the Council for the proper performance of the contract;

30.1.5 the contractor is responsible to the Council for the proper performance and observance by all sub-contractors of all the contractor's obligations under the contract as if references in the contract to "the Contractor" were references to the sub-contractors. Failure or neglect by a sub-contractor is deemed to be failure or neglect by the contractor;

30.1.6 the contractor is prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever any part of its contract, without the prior written consent of the appropriate Head of Service or Service Manager (following consultation with the Council Solicitor and the Chief Financial Officer);

30.1.7 all goods, materials, services or work must comply with any appropriate European Union Specification or Code of Practice or British Standard Specification or British Standard Code of Practice or European Union equivalents in force at the date of tender/quotation.

31. Corrupt Gifts

In every written contract a clause shall be inserted to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to obtaining the execution of the contract of any other contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council or if the like acts shall have been done by any person employed by him or acting on his behalf whether with or without the knowledge of the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward the receipt of which is an offence under subsection 2 of section 117 of the Local Government Act 1972.

32. Joint Purchasing Arrangements

32.1 Nothing in the contract standing orders relating to contracts shall require tenders to be invited and dealt with pursuant to those contract standing orders if tenders shall have been invited on behalf of any consortium collaborations or similar body ("the consortium") of which the Council is a member in accordance with any method adopted by the consortium.

32.2 Where tenders are invited as aforesaid by an officer of the Council the delivery opening and acceptance of tenders shall comply with the provisions of contract standing orders and financial regulations except insofar as those provisions are inconsistent with the consortium's method by which tenders obtained on its behalf are dealt with.

32.3 Where the tenders obtained on behalf of the consortium relate to the components for buildings proposed to be erected by more than one committee or the Council or there is any doubt as to which committee has the power or accepting or agreeing to the acceptance of a tender or of making the contract to which the tenders relate the Policy and Resources Committee shall be deemed to be the committee having such power.

33. **Contractors from other Member States of EEC**

Nothing in these standing orders shall operate or be construed as operating so as to prevent or hinder on grounds of nationality the participation in any contract offered or awarded by the Council of contractors from other Member States of the European Economic Community whether as main contractors or subcontractors.

34. **Contracts to which EU Procurement Rules apply**

34.1 **Thresholds**

Advice should be sought from the Chief Financial Officer in respect of any procurement with an estimated value greater than EU Procurement thresholds upon whether EU Procurement Rules apply. The threshold values are reviewed on a regular basis, normally every two years. Any changes made to the threshold values made by the EU are deemed to apply within these Contract Procedure rules. Table 1 identifies when EU Procurement Rules are likely to apply (valid from January 2012):

Table 1: EU Procurement Thresholds - Valid from January 2012

	All Procedures	Prior-information Notice
Supplies	£ 173,934	£652,253
Services	£ 173,934	£652,253
Works	£4,348,350	£4,348,350

Procurement exercises with an estimated contract value within 10% of Threshold levels where EU Procurement Rules apply should also be advertised in the OJEU to avoid OJEU advertising requirements being unintentionally breached.

34.2 Standards

If the European Committee for Standardisation (CEN) has issued a relevant standard, all the goods and materials used or supplied, and all the work done under the contract, must be in line with that standard.

34.3 The Euro

A provision should be included in any contractual documentation requiring the contractor to convert prices to sterling from Euro and to submit invoices for payment accordingly once notice is given to the contractor.

34.4 Number of Tenderers

If the contract is expected to exceed EU limits, a minimum of five contractors or suppliers must be invited to tender except where the adopted procedure provides otherwise. (In cases where fewer than five contractors or suppliers apply and are shortlisted, all contractors or suppliers must be invited to tender.)

If during the course of a competitive tendering exercise, an officer becomes aware that the value of bids received exceeds the EU Thresholds, but bid invitations have not been extended through the OJEU notice procedure as it was anticipated that the threshold would not be exceeded, advice must be sought from the Chief Financial Officer upon how to proceed.

Where the Council has an aggregated requirement for specified goods or services with an estimated annual value at or greater than the figures provided in Table 1, a Prior Indicative Notice (PIN) must be placed in the Supplement to the Official Journal of the European Community (OJEU) once annually.

34.5 Buyer's Profile

The Council shall publish and maintain a buyer's profile via the internet incorporating the following information:

- (a) a brief description of future and current tenders within the year 1 April to 31 March
- (b) the date the advert was dispatched to OJEU
- (c) the OJEU reference number

- (d) the closing date for notification of interest in relation to expressions of interest
- (e) the tender dispatch date
- (f) the closing date for tenders
- (g) the award date
- (h) the identity of the successful tenderer
- (i) the award notice reference number
- (j) the date of the award notice

34.6 **EU Procedures:**

All contracts with a value in excess of EU limits shall be let in accordance with a procurement method which is acceptable within EU law. The acceptable methods are the Restricted, Open and Negotiated Procedures and Competitive Dialogue.

Where the Restricted Procedure, Open Procedure or Competitive dialogue are used the Council is required to place a Contract Notice in the Official Journal of the European Community and the timescale for expressions of interest in response to such notices is prescribed.

Advertisement is subject to the following constraints:

- (a) advice must be sought upon the applicable timescales;
- (b) the accelerated procedure may only be used with the consent of the Chief Financial Officer.

Table 2 sets out the ordinary timescales. The applicable timescales may be reduced further as indicated in Tables 3 and 4 where electronic systems are used to publish the contract notices and provided unrestricted electronic access to documentation:

Table 2: Advertisement in OJEU without use of electronic media

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from contract notice	-	37 days	15 days	37 days (if poss.)
(ii) to the closing date for receipt of tenders	52 days	40 days	10 days	21 days
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	36 days	26 days	N/A	21 days (i.e., same as above)
Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

Table 3: Notice of contract compiled and submitted electronically:

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days (if poss.)
(ii) to the closing date for receipt of tenders	45 days	35 days	10 days	14 days
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	19 days	N/A	14 days (i.e., same as above)
Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

Table 4: Notice of contract compiled and submitted electronically and unrestricted electronic access to all contract documentation provided at tender receipt stage

Minimum no. of calendar days after sending the Contract Notice to OJEU	EU Open Procedure	EU Restricted Procedure	EU Accelerated Procedure	EU Negotiated Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice	-	30 days	10 days	30 days
(ii) to the closing date for receipt of tenders	40 days	14 days	10 days	21 days
as (ii) above, but where a PIN is published between 52 and 365 days prior to the Contract Notice	29 days	5 days	N/A	21 days (i.e., same as above)
Minimum no. of days to allow following decision on contract award before formalising contract	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	48 days	48 days	48 days	48 days

8: OFFICER EMPLOYMENT PROCEDURE RULES

1. 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 related to 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 either the Chief Executive or the Chief Financial Officer or an officer nominated by him/her;

(b) Seeking support for appointment.

- (i) The Council may 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.

2. Recruitment of Head of Paid Service and Chief Officers

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 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 (a) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or sub-Committee of Council.

4. **Appointment of Chief Officers**

A Committee or Sub-Committee of the Council will appoint Chief Officers.

5. **Other Appointments**

- (a) **Officers below Chief Officers:** Appointment of, and below, Head of Service (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may 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.

6. **Disciplinary Action - Provisions to be incorporated in standing orders in respect of disciplinary action**

- (a) Definitions in the following paragraphs -
 - (i) “the 2011 Act” means the Localism Act 2011(b);
 - (ii) “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);

- (iii) “independent person” means a person appointed under section 28(7) of the 2011 Act;
 - (iv) “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;
 - (v) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (vi) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (vii) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
- (b) A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.
- (c). The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (d) In paragraph (c) “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.
- (e) Subject to paragraph (f), 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 -
- (i) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (ii) any other relevant independent person who has been appointed by the authority;

- (iii) a relevant independent person who has been appointed by another authority or authorities.
- (f) The authority is not required to appoint more than two relevant independent persons in accordance with paragraph (e) but may do so.
- (g) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- (h) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular
 - (i) any advice, views or recommendations of the Panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iv) any representations from the relevant officer.
- (i) 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."
- (j) **Suspension:** The Head of Paid Service, Chief Financial Officer and Monitoring Officer may be suspended by Full Council whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (k) Councillors will not be involved in any disciplinary action against any officer below those mentioned in 6(j) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and relevant procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action. That involvement will be via the Council's Appeal Panel.

7. Dismissal

Councillors will not be involved in the dismissal of any officer below those mentioned in 7(6(b)) except where such involvement is necessary for any

investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

Part 5

Codes and Protocols

**RYEDALE
DISTRICT
COUNCIL**



**MEMBERS' CODE OF CONDUCT
WITH GENERAL PRINCIPLES OF LOCAL GOVERNMENT**

**WITH EFFECT FROM
1 JULY 2012**

**Ryedale District Council
Ryedale House
MALTON
North Yorkshire
YO17 7HH**

CONTENTS

1. Introduction
2. General Principles of Local Government
3. Members' Code of Conduct

Version	Author	Date	Comments
1	Anthony Winship	July 2007	
2	Anthony Winship	June 2008	Local Assessment Changes
3	Anthony Winship	May 2012	Localism Act 2011 Changes

RYEDALE DISTRICT Council
LOCALISM ACT 2011 – CHAPTER 7 OF PART I
CODE OF CONDUCT FOR COUNCILLORS
WITH GENERAL PRINCIPLES OF LOCAL GOVERNMENT
EFFECTIVE FROM 1 JULY 2012

**[Adopted by resolution at a Meeting of Ryedale District Council held on
19 May 2012]**

INTRODUCTION

The District Council adopted its first Code of Conduct in accordance with section 51 of the Local Government Act 2000 on 10 January 2002.

The new code was adopted pursuant to Section 27 of the Localism Act 2011 by a Council Meeting on 19 May 2012 with effect from 1 July 2012.

Principles and Outcomes

The Code of Conduct is a principles based, outcomes focussed Code of Conduct which is in the following three parts:-

- (i) Part 1 - Principles at page 5
- (ii) Part 2 - The outcomes the principles seek to achieve at page 6
- (iii) Part 3 - Interests at page 7

The Code of Conduct sets out seven mandatory principles which apply to Member conduct. They originate from the Seven Principles of Public Life (the 7 Nolan principles) that Lord Nolan included in his report called “*Standards in Public Life*” published in July 1997. They are the key ethical requirements for Members and co-opted Members who are involved in Local Government. Members and co-opted Members must abide by these principles and use them as their starting point when faced with an ethical dilemma. Where two or more of these principles come into conflict then the principle which takes precedence is the one which best serves the public interest in the particular circumstance, especially the public interest in the proper administration of Local Government.

Outcomes are mandatory and achieving them should help to ensure compliance with the Principles.

Absent from the Code of Conduct are the ‘indicative behaviours’ that are required to produce the outcomes. However, many ‘indicative behaviours’ are already incorporated in the Council’s existing documentation, for example, dealing with member-officer relations, use of Council resources, information management, protocol on the disclosure of confidential information, standing orders, and the Planning Code of Practice etc.

To whom does it apply?

It applies to both Members who are councillors and to co-opted members of committees or sub-committees of the District Council.

This Code of Conduct is expressed in the first person to make explicit the personal responsibility that each individual Member has to comply with the provisions of the Code of Conduct.

The Purpose of the Code

The Code defines the standards of conduct which will be required of Members of the District Council in carrying out their duties, and in their relationships with the District Council and the District Council's officers. The Code represents the standards against which the public, their fellow members, the Local Government Ombudsman and the Council's Overview and Scrutiny Committee meeting as a Corporate Governance Committee will judge their conduct.

Raising Concerns

If any person has a complaint or concern about the conduct of a Member of the Council in relation to the Code of Conduct, s/he can submit a complaint using our complaint form ***Complaint Form: Code of Conduct for Members***. Before completing the complaint form you are advised to read the notes ***Code of Conduct for Members: Information for Potential Complainants***.

Both these documents may be seen on the Council's web site. Alternatively copies of these documents are available direct from Legal Services on (01653) 600666 extension 255 or via e-mail at legal@ryedale.gov.uk

The purpose of the General Principles

The general principles underpin the Code of Conduct for Members and are included as a preamble for completeness.

The Council's Overview and Scrutiny Committee (meeting as a Corporate Governance Committee)

Responsibility for discharging the District Council's duty to promote and maintain high standards of conduct has been delegated to the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee for the District Council is the Overview and Scrutiny Committee (meeting as a Corporate Governance Committee) appointed by the District Council. It comprises nine elected Members. Two Independent persons are available to advise.

Further details about the Committee can be obtained from:-

Council Solicitor
Ryedale District Council
Ryedale House
Malton
North Yorkshire
YO17 7HH

Telephone: (01653) 600666 Ext: 267
Fax: (01653) 696801
Email: anthony.winship@ryedale.gov.uk
Internet: www.ryedale.gov.uk

MEMBERS' CODE OF CONDUCT

Preamble

General Principles of Local Government Conduct

These are the General Principles of Local Government Conduct that have been approved by Parliament and underpin the Code of Conduct for Councillors.

Background

1. Under section 28 of the Localism Act 2011, Parliament has specified the principles which are to govern the conduct of councillors and voting co-optees.
2. The code of conduct for councillors and voting co-optees must be consistent with these principles.
3. Members must take account of these principles. The Hearing Panel established to deal with complaints, the Local Government Ombudsman and the Courts may have regard to these principles when dealing with complaints against Members or scrutinising the procedures or decisions of the Council and its Committees.

Application

This Code of Conduct applies to you whenever you are acting in your capacity as a member of Ryedale District Council, including –

- 1.1 At formal meetings of the Council, its Committees and Sub-Committees
- 1.2 When acting as a representative of the authority
- 1.3 In discharging your functions as a Ward Councillor
- 1.4 At briefing meetings with officers and
- 1.5 At site visits
- 1.6 When corresponding with the authority other than in a private capacity

PART 1 - PRINCIPLES

As a member or co-opted member of Ryedale District Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority:-

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

PART 2 - OUTCOMES

As a Member of Ryedale District Council, my conduct will in particular address the statutory principles of the code of conduct by:

- **Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.**
- **Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.**
- **Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the District or the good governance of the authority in a proper manner.**
- **Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.**
- **Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.**

- **Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.**
- **Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.**
- **Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.**
- **Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.**
- **Always treating people with respect, including the organisations and public I engage with and those I work alongside.**
- **Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.**

PART 3 - INTERESTS

Summary

Part 3 comprises the following three sections:-

- (i) Part A – Disclosable Pecuniary Interests
- (ii) Part B – Disclosable Other Personal Interests
- (iii) Part C – Gifts and Hospitality

The Act further provides for the registration and disclosure of interests and in Ryedale District Council this will be done as follows:

Registering and Declaring Pecuniary and Non-Pecuniary Interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they

have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or other personal interests as defined by your authority. This includes complying with any procedure rule adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary or other personal interest is being discussed.

PART A – DISCLOSABLE PECUNIARY INTERESTS

Part A explains the requirements of the Localism Act 2011 (Ss 29-34) and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests. These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

1 Notification of Disclosable Pecuniary Interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These are listed in the attached Appendix.

2 Register of Interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

3 Sensitive Interests

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

4 Non participation in case of Disclosable Pecuniary Interest

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting.

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Order X requires you to leave the room where the meeting is held while any discussion or voting takes place.

5 Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

6 Offences

It is a criminal offence to:

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 (currently £5,000) on the standard scale and disqualification from being a councillor for up to 5 years.

PART B – DISCLOSABLE OTHER PERSONAL INTERESTS

Part B relates to the Disclosure of other Personal Interests. The layout follows the Localism Act layout ie notification, disclosure, register, sensitive interests, non participation.

Interests

1 Notification of Interests

- (1) You must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- (2) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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.
 - (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

2 Disclosure of Interests

(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 1 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) (A) You have a personal interest in any business of your authority

- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

(B) In sub-paragraph (2)(A), a *relevant person* is—

- (a) a member of your family or any person with whom you have a close association; or

- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 1(2)(a)(i) or (ii).

(3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 1(2)(a)(i) or 1(2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(4) Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Note:

- (a) "A member of your family" means: your partner (ie your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner, your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
- (b) You have a "close association" with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

3 Register of Interests

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

4 Sensitive Interests

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

5 Non participation in case of Pecuniary Interest

(1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the

public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business—

(a) affects your financial position or the financial position of a person or body described in paragraph 1(2); or

(b) relates to or affects the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 1(2) or 2(2) above.

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority—

(a) You may not participate in any discussion of the matter at the meeting.

(b) You may not participate in any vote taken on the matter at the meeting.

(c) If the interest is not registered, you must disclose the interest to the meeting.

(d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition Standing Order X requires you to leave the room where the meeting is held while any discussion or voting takes place.

(3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

6 Interests arising in relation to Overview and Scrutiny Committees

In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

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

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

PART C – GIFTS AND HOSPITALITY

You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

The Monitoring Officer will place your notification on a public register of gifts and hospitality.

This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the descriptions described below.

Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:-

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner, as above).

<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

RYEDALE
DISTRICT
COUNCIL



RYEDALE DISTRICT COUNCIL OFFICERS' CODE OF CONDUCT

CODE OF CONDUCT FOR EMPLOYEES

Item	Context	Page No
1.0	Purpose	198
2.0	Scope	198
3.0	Code of Conduct – Core Principles	198
4.0	Code of Conduct – Core Standards – Guidance	200
	4.1 Gifts and Hospitality	200
	4.2 Sponsorship- Giving & Receiving	201
	4.3 Use of Financial Resources	201
	4.4 Use of Council Facilities	201
	4.5 Intellectual Property	202
	4.6 Political Neutrality	202
	4.7 Other Employment and External Activities	203
	4.8 Personal Interests - Financial and Non-Financial Interests	204
	4.9 Relationships	205
	4.10 Appointments & Other Employment Matters	207
	4.11 Tendering & Contracts	208
	4.12 Corruption	209
	4.13 Private Use of Firms Dealing with the Council	209
	4.14 Employee Concerns and Members	209
	4.15 Disclosure of Information	209
	4.16 Compliance with the Code & Confidential Reporting	211
5.0	Code of Conduct – Associated Forms & Referral Points	211
6.0	Other Standards relevant to different groups of Employees throughout the Council	211
7.0	Ryedale District Council’s Core Values	215

CODE OF CONDUCT FOR OFFICERS

1. PURPOSE

The purpose of having a Code of Conduct is to:

- To make a clear statement about the standards of conduct expected of employees of Ryedale District Council.
- To ensure the highest standards of conduct by identifying corporate standards which sit alongside professional codes and guidelines.
- Help all employees to act in a way which upholds the Council's standards, and at the same time, protect them from criticism, misunderstanding or complaint.
- To help build trust between the Council and the people who come into contact with those working for it.

2. SCOPE

This Code of Conduct applies to:

- All employees of the Council. Employees are as defined in Section 230 of the Employment Rights Act 1996 or any subsequent legislation.
- Individuals providing services for the Council eg contractors, agencies, self-employed, and those working for the Council as part of partnerships with the Council.

Disregarding this Code will, in certain circumstances, result in disciplinary action being taken. All employees will be supplied with a copy of this Code, against which their conduct will be measured.

3 CORE PRINCIPLES

The following core principles underpin the concept of public service and apply to all employees of the Council regardless of the nature of the job they do.

SELFLESSNESS

Employees should take decisions solely in the terms of the public interest. They should not do so nor use their position in order to gain financial or other material benefits for themselves, their family or their friends.

INTEGRITY

Employees should not place themselves under any financial or other obligations to outside individuals or organisations that might influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, employees should make decisions on merit.

ACCOUNTABILITY

Employees are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Employees should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

HONESTY

Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

RESPECT FOR OTHERS

Employees must treat other people with respect and not discriminate unlawfully or unfairly against any person. They must treat Councillors and other co-opted Members of the authority professionally.

TRUST

Employees must, at all times, act in accordance with the trust that the public is entitled to place on them. Employees must use any public money or service users' money entrusted to or handled by them, in a responsible and lawful manner and not make personal use of the Council resources unless properly authorised to do so.

LEADERSHIP

Employees should promote and support these principles by leadership and example.

The Code of Conduct principles operate within the overall framework of the expected Council Values and Behaviours for Ryedale District Council (explained further in Section 8 of the Code).

You should also be aware of and abide by service specific Standards or Regulations, especially when working with vulnerable adults and children. These are explained in paragraph 6 of this Code.

Please liaise with your Manager who should refer you to the appropriate standards. At the end of the Code of Conduct Guidance notes, you will also find a matrix to help signpost you to other relevant Standards. This may be seen in paragraph 6 of the Code.

4 CORE STANDARDS

Our customers, the general public, are entitled to expect the highest standards of conduct from us. The aim of this code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.

4.1 Gifts and Hospitality

- 4.1.1 A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence.
- 4.1.2 Casual gifts offered to employees by contractors, organisations, firms or individuals such as calendars, diaries, mouse mats, pens and other small gifts need not be declared. The general rule is that a gift below the value of £25 does not need to be declared. However, it will not be appropriate to accept a gift below that value if it's more than minimal and may be perceived as an inducement. Where a number of small gifts over a period of time amount to more than £25 collectively these should be declared.
- 4.1.3 With the exceptions listed below, you should decline any personal gift offered to you, or to a member of your family, with a value of £25 or over by any person or organisation having dealings with the Council.
- 4.1.4 Any such offered should be reported to your Line Manager, Head of Service or above on **Form OCC1** and should be recorded in a register, which is kept for this purpose. Heads of Service should report any such offer to the Monitoring Officer, who will record it in a similar register. The Monitoring Officer will report any such offer received to the Chief Executive, who will record it.
- 4.1.5 When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your Line Manager or the Council Solicitor.
- 4.1.6 A checklist is provided at **Annex A** which you should use to help you decide whether or not it is appropriate to accept a gift. If you are in doubt advice can be sought from the Council Solicitor.
- 4.1.7 You should only accept hospitality where it is on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality. Hospitality is usually acceptable when the invitation is corporate not personal
- 4.1.8 Whatever gift/hospitality is provided to you, other than hospitality of nominal value only such as drink or small item of stationery, you should report the circumstances and the type of hospitality to your Line Manager, Head of Service or above.

4.1.9 It is a serious criminal offence to corruptly receive 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. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

! If you are presented with a gift or offer of hospitality you must seek authorisation in advance, where possible, from your Head of Service, the Corporate Director or the Chief Executive who will record every request on the relevant form. (Consider the decision checklist in Annex A of the Guidance Notes).

4.2 Sponsorship – Giving and Receiving

4.2.1 If an organisation wants to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors

4.2.2 If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

! You must inform your Line Manager, Head of Service or above of any personal interest you may have and complete a declaration of interest form.

4.3 Use of Financial Resources

4.3.1 You must ensure that you use public funds entrusted to you in a responsible and lawful manner. Please try to ensure value for money to the local community and to avoid the risk of legal challenge to the Council.

! Employees must follow Standing Orders, Financial Regulations and operating procedures and advise management where they consider changes can be made to increase value for money.

4.4 Use of Council Facilities

4.4.1 At work you have access to facilities which include office equipment, computers, stores, transport etc. Except as permitted by the relevant ICT policy currently in force these facilities are provided purely for work and you must not use them for your own purposes.

4.4.2 There are certain minor exceptions to these rules - the use of telephones, fax machines and photocopiers.

4.4.3 Telephones - Ideally, private telephone calls should not be made or received. In practice, you may need to make or receive essential calls but these should be kept to a minimum and costs reimbursed to the Council, unless it is an emergency.

4.4.4 Fax machines and photocopiers - If necessary, personal fax messages may be dispatched to locations within Great Britain. Photocopies of personal documents (up to a maximum of 10 copies at any one time) may be taken and costs reimbursed to the Council.

! Costs must be reimbursed to the relevant person using the Council's reimbursement process.

4.5 Intellectual Property

4.5.1 Intellectual property mean products of the mind, for example inventions, designs, trade marks, creative writings, programs and drawings (referred to in short as 'inventions'). It will normally be the case that the ownership of all 'inventions' and the copyright of all written material created during work for the Council, belong to the Council.

! This is a complex area further guidance must always be sought from the Legal Services in any particular case.

4.6 Political Neutrality

4.6.1 There is a long established tradition that local government officers involved in advising elected members of their authority should be seen to observe a policy of political neutrality.

4.6.2 This policy of the political neutrality of officers is important for two main reasons. Firstly it is essential to the functioning of the democratic system that members of a local authority should be able to receive impartial advice from its officers, and that its officers should not be influenced by any political bias in the implementation of the authority's policies. Secondly, it is also vital that members, and those who have elected them, should have complete confidence that their officers will give impartial advice and will act impartially in implementing the authority's policies.

4.6.3 The Council's staff is made up of two types of employee, those who hold "politically restricted posts" and those who do not.

4.6.4 Politically restricted posts fall into two broad categories:

(a) Specified posts:

- the Head of the Paid Service (s4 LGHA)
- non-statutory chief officers
- deputy chief officers
- the monitoring officer (s 5 LGHA)
- the chief financial officer (s 151 LGA)
- officers exercising delegated powers, ie persons whose posts are for the time being specified by the authority in a list maintained in accordance with Section 10OG(2) of the Local Government Act 1972 as amended.

(b) 'Sensitive' posts:

A sensitive post is one which meets one or both of the following duties related criteria:

- (i) giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority.
- (ii) speaking on behalf of the authority on a regular basis to journalists or broadcasters.

4.6.5 All staff in work related time, both those who are politically restricted and those who are not, must follow the Officer Code and also must be politically neutral. They must not do anything during the working day that is a restricted activity.

4.6.6 Politically restricted staff in their private time cannot do anything that is a restricted activity.

4.6.7 But other staff in their private time are not affected by the rules on politically restricted activities.

4.6.8 The restrictions on Officers in Politically Restricted Posts prevents local government employees from standing for office as:

- Local Authority Member (other than a Parish/Town Council)
- MPs
- MEPs

4.6.9 They are also restricted from:

- Acting as an election agent
- Being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party
- Canvassing on behalf of a political party or a person who is or seeks to be a candidate
- Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party

They can display an election poster in their own home or vehicle.

4.6.10 The cumulative effect of these restrictions is to limit the holders of Politically Restricted Posts to bare membership of political parties, with no active participation within the party permitted.

4.7 Other Employment & External Activities

- 4.7.1 As a general rule you must not undertake any type of private work which conflicts with the Council's interests or prevents you from fulfilling the terms of your employment contract.
- 4.7.2 If you are above NJC Grade 7 or equivalent, you must obtain the consent of your Line Manager, Head of Service or above before you do private work. You should complete **Form OCC2** and submit it to your Head of Service after consulting your Line Manager.
- 4.7.3 Whether or not you need to obtain consent before doing private work, **you must not;**
- Do private work during working hours nor on the Council premises nor use Council equipment
 - Undertake any private work which prevents you from carrying out your duties with the Council or including any requirements to do contractual overtime
 - Undertake private work for any person, firm or company if it will involve the Council
 - Prepare or assist with any applications, for example, planning or building, in any private capacity if you deal with these normally
 - Access Council Services, for example, if you want to make a planning application personally, unless you declare your employment in writing, in a covering letter with your application and submit this via your line manager
 - Undertake private work that needs approval or consent from the Council
 - Undertake private work for any person, firm or company who have a contractual relationship with or who are commissioned by the Council for any type of work
 - Undertake private work for another employee responsible for supervising you or whom you supervise, or for an elected member of the Council.
- 4.7.4 Officers must ensure they understand and can comply with both Working Time and Health and Safety regulations before considering other employment.
- 4.7.5 If an employee has their request to take on additional work refused and wishes to challenge this, they should speak to their line manager or consider raising a grievance under the Council's grievance procedure.
- ! Officers must seek consent from their line manager before undertaking other work. All employees must declare an interest where a conflict may arise.**

4.8 Personal Interests including Financial and Non-Financial Interests

- 4.8.1 Officers may have a variety of personal interests, which may from time to time impact on their role for the Council. To protect the Council and the Officer from any accusations of wrong doing the Council has in place a number of safeguards which demonstrate that these interests are not allowed to influence the way the Council conducts its business.
- 4.8.2 The following Officers must complete a REGISTER of interests form:

1. Chief Executive or Corporate Director;
- 2 Head of Service or equivalent;
- 3 Service Manager;
- 4 Any officer in a Politically Restricted Post

4.8.3 The purpose of this register is to ensure that those who have responsibility for taking the majority of delegated decisions of the authority are required to meet similar standards required of elected members in relation to the registration and declaration of interests.

4.8.4 The officer register of interests will not be available for public inspection as this is personal information. The register will be available for certain officers within the authority to inspect where they need to do so as part of the duties for the Council. These are:-

- (a) The Chief Executive or Corporate Director
- (b) The Council Solicitor
- (c) Heads of Service
- (d) The relevant line manager
- (e) The Chief Financial Officer

The information may also need to be disclosed to those involved in hearing any disciplinary matter or in accordance with the Council's other legal obligations to disclose information to the external auditors or the Local Government Ombudsman.

4.8.5 The form and guidance for completion is available in **Form OCC6**. When completed this form should be returned to Legal Services.

4.8.6 Whatever your role within the organisation, you must **DECLARE** to your Line Manager, Head of Service or above on **Form OCC3** any financial or non-financial interests which could bring about conflict with the Council's interests.

4.8.7 If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.

4.8.8 You must not make, or become involved with, any official, professional, decisions about matters in which you have a personal interest.

4.8.9 Section 117 of the Local Government Act 1972 requires you to make a formal declaration about contracts or proposed contracts with the Council in which you have a pecuniary interest. Such declarations should be made on **Form OCC4** and sent to your Line Manager, Head of Service and the Council Solicitor. It is a criminal offence to fail to comply with this provision, which is set out in full at **Annex B** to this Code. Pecuniary interests are considered at Section 95 of the Local Government Act 1972, **See Annex C** to this Code.

! **You must speak to your line manager whenever you have a personal interest and comply with the provisions of this Code.**

4.9 Relationships

- 4.9.1 Officers must remember their responsibility to the community they serve. They must be courteous, efficient and impartial in their service delivery to all groups and individuals with whom they come in contact.
- 4.9.2 Officers should ideally avoid close personal familiarity with individual Councillors. Such familiarity can damage the professional relationship needed to execute the Authority's work. Mutual respect between Officers and Councillors is essential to good local government. Close familiarity can prove embarrassing to other employees and Councillors and may produce conflicts of interest that would bring the Authority into disrepute.
- 4.9.3 Officers must inform their manager of all relationships of a business or private nature with external contractors or potential contractors.
- 4.9.4 Officers who engage or supervise contractors and have any other official relationship with contractors or currently have a relationship in a private or domestic capacity with contractors must declare that relationship to their manager.

4.9.5 Working with Colleagues

It is expected that you will:-

- 1 Comply with all aspects of the Council's Equal Opportunities Policy
- 2 Treat all staff with dignity and respect
- 3 Acknowledge and value the role of all colleagues
- 4 Share best practice and network with other teams / units
- 5 Comply with the Council's zero tolerance of bullying, harassment or victimisation (including those on grounds of race, sex, sexual orientation, religion, gender, age, belief or disability).
- 6 Be supportive of colleagues and help them to learn and develop new skills
- 7 Work with others to achieve a fast and effective resolution to any conflict arising between staff.

4.9.6 Working with everyone

It is expected that all Officers will:-

- 1 Demonstrate polite and courteous behaviour to all colleagues, customers and elected members at all times
- 2 Ensure that the needs of internal and external customers and Councillors are paramount and are met to their satisfaction
- 3 Comply with all aspects of the Council's Equal Opportunities Policy
- 4 Comply with all aspects of the Council's Safeguarding Children and Vulnerable Adults Policy and Procedures, including its Code of Conduct.
- 4 Refrain from using language or behaving in a manner that another person may find offensive or intimidating
- 5 Bring concerns to the attention of managers. The Council has a Whistle Blowing procedure which may be used in certain cases / circumstances.
- 6 Take responsibility for their own health and safety and assist in maintaining the security and safety of the Council and its staff.

4.9.7 Working with Councillors (link corporate identity manual)

- 1 If you are required as part of your job to give advice to Councillors in general, you must work for all Councillors, not just those of any controlling group, and must ensure that the individual rights of all Councillors are respected.
- 2 It is important that you aim to have a relationship with Councillors based on mutual respect: close personal familiarity can damage the relationship and embarrass other employees. In some cases, there might also be a conflict of interests because of a close friendship or personal relation and therefore this should be declared to your manager.
- 3 If your job also includes advising political groups, you must not behave in a way that suggests political bias.

4.9.8 Being Corporate

It is expected that all employees will:-

- 1 Comply with all Council Policies and Procedures
- 2 Put the interests of the Council above their own departmental interests
- 3 Take personal responsibility for, and pride in, the Council environment
- 4 Maintain an awareness of whole Council issues through communication channels including briefings and newsletters
- 5 Ensure all staff or whom you are responsible are kept informed and are encouraged to feedback to you on council, department or individual issues
- 6 Avoid any sort of behaviour or activity that is likely to bring the Council into disrepute.

4.9.9 Being responsible

It is expected that all Officers will:-

- 1 Take responsibility for their own personal and professional development in consultation with their Line Manager
- 2 Confront rather than deny problems with their own performance
- 3 Communicate ideas and make suggestions for improvements to Line Managers, always looking for creative solutions to problems and positive contributions.

4.9.10 Employment Matters / Equality of Opportunity

- 1 Potential and existing employees must be treated equally regardless of sex, race, colour, nationality, ethnic origin, disability, sexual orientation or marital status
- 2 Officers responsible for recruitment of staff must ensure that appointments are made on the candidate's merits and abilities only
- 3 Officers must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him/her. Such a relationship must be declared prior to the short-listing process to avoid any possible accusation of bias.
- 4 Officers must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative or partner etc. Such a relationship must be declared prior to decision making.
- 5 Officers should consult the Council's equal opportunities policy.

4.10 **Appointments & Other Employment Matters**

1. If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with our Recruitment and Selection Policy and Procedures obtainable from Human Resources. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.
2. Similarly, you should not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner etc.
3. You must declare your interest on **Form OCC3** to your Line Manager, Head of Service or above.

! Declare an interest on the Declaration form if there is a potential conflict.

4.11 Tendering and Contracts

- 4.11.1 The award of work or contracts on behalf of the Council should be made on merit alone and should be free from any implications of favour or external influence. You must therefore declare to your Line Manager any relationship, be it business or personal with a current or possible future outside contractor/supplier. This is especially true if you are involved in any way with a tendering process. If you discover a conflict of interest, declared or otherwise, you should not take part in that process and declare your reasons to your manager.
- 4.11.2 Employees involved in the tendering process and dealing with contractors should be clear about the nature of the separation of client and contractor roles within the Authority. Senior Officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 4.11.3 If you are part of a contractor or client unit or have other official relationships with contractors, you must exercise fairness and impartiality when dealing with all customers, other contractors and sub-contractors.
- 4.11.4 If you are responsible for engaging or supervising contractors and have previously had, or current have, a relationship in a private or domestic capacity with a particular contractor, you must declare that relationship to your Line Manager, Head of Service or above using **Form OCC5**.
- 4.11.5 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person or organisation.
- 4.11.6 All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

! Declare an interest on the Declaration Form if there is a potential conflict.

4.12 Corruption

4.12.1 Employees must be aware that it is a serious criminal offence under the Prevention of Corruption Acts for them to receive or give any gift, loan, reward or advantage in their official capacity 'for doing, or not doing, anything' or 'showing favour, or disfavour to any person'. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules appear at **Annex D** as attached to this code.

4.12.2 For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to the Corporate Director.

4.13 Private Use of Services or Firms Dealing with the Council

4.13.1 You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public, this is a difficult and sensitive area. Please try to avoid offending anyone and, if necessary, explain the Council's policy.

4.13.2 If you think that any offer of preferential terms is designed to promote a firm's interest, you should not deal with the firm.

4.13.3 You should not use your position with the Council to obtain a discount. However, you may purchase goods at discount terms under a scheme or arrangement, which applies to eg your trade union.

! If you require further guidance please refer to the Procurement Team.

4.14 Employee Concerns and Members

4.14.1 It is not appropriate for Council Officers to lobby Members on matters of individual concern about their employment, operational issues or future policy decisions and Members should discourage Officers from making such approaches. A member of staff who is unhappy about a matter affecting them personally should be encouraged to take this up with their line manager. If they are not happy with the response the next step is to talk to their trade union or staff representative. The Council's grievance procedure is available if informal methods have not resolved the issue.

4.15 Disclosure of Information

Access to Information / Confidentiality (FOI)

4.15.1 Under the Freedom of Information Act the public have a right to access information about the council's business. This is essential to enable citizens to contribute and take part in the work of the Council. The Council's policy can be seen in the Freedom of Information policy.

4.15.2 However the Council deals continuously with sensitive and confidential information affecting its policies, transactions and employees as well as its relationship with other organisations and individual members of the public to which there is no right of public access and which must remain confidential.

4.15.3 You must ensure, therefore, that any information that you may have is treated very carefully and is not given to people either inside or outside the council who do not have a genuine need and authority to have the information as part of their normal work. This information may be found in a range of documents, plans and financial presentations and can concern the Council's activities, the circumstance of individual customers, employees and organisations carrying out work for the Council.

4.15.4 In general, information must not be disclosed without the consent of the individual concerned unless it is required by law. Also if you are asked to disclose any information you should be aware of the rules of the Data Protection Act which makes it unlawful to disclose information without the person's consent unless it is for one of the following reasons:

- (a) the prevention or detection of crime / or criminal activities
- (b) the prevention of defrauding the Council
- (c) the apprehension or prosecution of offenders
- (d) the assessment or collection of any tax or duty
- (e) the organisation is registered by us to receive information.

4.15.5 If you are approached to give information under one of the above headings you should:

- (i) satisfy yourself that the request falls under (a) to (e) above, if in any doubt ask your manager
- (ii) ask the person to put the request in writing unless the delay would cause problems. If it is necessary to respond on the telephone you should ring the person back to verify the call is genuine. Do not use direct lines – go through the main switchboard.

4.15.6 You must also not use information obtained in the course of your work for personal gain or benefit or pass it on to others who might use it in such a way.

4.15.7 It is important to note that the necessity for confidentiality exists not only during employment but also after you have left. For example, you must not disclose information on issues which are politically or commercially sensitive, concern staffing or restructuring or which affect the Council's legal liabilities.

4.15.8 **Computer Information / Data Protection Act**

If you have access to computer information at work you will also be issued instructions about computer security and proper use of the computer. Please make sure that you read the various documents included in the Council's current information handling policies referred to in the matrix of policies in paragraph 6 below and abide by the contents.

The Data Protection Act provides for particular penalties over and above the council's disciplinary procedure for the unauthorised disclosure of personal information. Under the law you may be personally liable for disclosing

personal information. So remember, for example, to take greater care of your computer password and any materials you are using, sign off if you are going to leave your terminal unattended, and dispose carefully of any unwanted floppy disks and printouts etc. Take care not to put any personal information on the internet.

4.16 Compliance with the Code

4.16.1 It is important that local government Officers are exemplary in their conduct at work. Non-compliance with this Code will be dealt with in accordance with our Disciplinary Policy.

4.16.2 Employees who consider other employees to be guilty of misconduct must report this to their line manager or raise it through one of the other available procedures eg grievance.

4.16.3 Employees must not treat employees who report (or who intend to report or are suspected of reporting) potential misconduct any less favourably than other employees.

4.16.4 If, in some instances, the employee cannot make use of the existing procedures for any reason then they should raise complaints or genuine matters of concern with the relevant person through the Whistle Blowing Policy.

! This code is reviewed annually. Officers should therefore ensure they regularly familiarise themselves with the Code and its Guidance Notes.

5. ASSOCIATED FORMS AND REFERRAL POINTS

The forms can be found on the HR website under the Code of Conduct.

Name	Action taken by :	Held By/Refer to
OCC1 – Report of offer of gift	Officer to Line Manager, Head of Service or above	HR Intranet
OCC2 – Application for approval of outside employment	Officer to Line Manager, Head of Service or above	HR Intranet
OCC3 – Declaration of Personal Interests	Officer to Line Manager, Head of Service or above	HR Intranet
OCC4 – Notice under Section 117	Officer to Line Manager, Head of Service or above and Council Solicitor	HR Intranet
OCC5 – Declaration of Relationship with Officer	Officer to Line Manager, Head of Service or above and Council Solicitor	HR Intranet
OCC6 – Register of Interests	Officer to Line Manager, Head of Service or above and Council Solicitor	HR Intranet

6 CODE OF CONDUCT – MATRIX OF POLICIES, REGULATIONS AND STANDARDS RELEVANT TO SPECIFIC SERVICES

In determining acceptable standards, Officers are asked to familiarise themselves not only with those included in the Officer's Code of Conduct but also those included in Service specific Codes, corporate policies or operational procedures used by their own Services.

This matrix signposts employees to other key policies, Regulations and Standards, although this should only be used for guidance. Each heading is not mutually exclusive and an employee may find that all headings could apply to them.

APPLIES TO ALL EMPLOYEES	WORKING WITH THE PUBLIC	WORKING WITH SERVICE USERS	WORKING WITH RESOURCES	USING COMMUNICATIONS	WORKING WITH PARTNERS/OTHER ORGANISATIONS	WORKING WITH INFORMATION
Recruitment and Selection Diversity Dignity at Work Health and Safety Confidentiality Core Values Working time regulations Whistle Blowing Drug and Alcohol Policy Preservation from Harrassment Job Evaluation Induction	R & S (Recruitment and Selection) Diversity Freedom of Information Habitual or Vexatious Complainant Policy Offensive/Potentially Violent Incident Register Health & Safety Work Charter Smoke Free Legislation Environmental Protection Charter	Confidentiality Code Equal Opportunity Access to Services Members' Code of Conduct Safeguarding Children and Vulnerable Adults Policy and Procedures	Anti-Fraud & Corruption Financial Regulations Procurement Policy	Acceptable Use Policy IT Code of Practice Telephone and Desk Use Policy Internet Acceptable Usage Policy Removable Media Policy Communications and Operation Management Policy E-mail Policy GCSx Acceptable Use Policy and Personal Commitment Statement Human Resources Information Security Policy Information Protection Policy Information Security Incident Management Policy	Confidentiality Equal Opportunities CRB Policy Communications Policy/Strategy Safeguarding Children and Vulnerable Adults Policy and Procedures	Confidentiality Data Protection Freedom of Information Information Charter Safeguarding Children and Vulnerable Adults Policy and Procedures

APPLIES TO ALL EMPLOYEES	WORKING WITH THE PUBLIC	WORKING WITH SERVICE USERS	WORKING WITH RESOURCES	USING COMMUNICATIONS	WORKING WITH PARTNERS/OTHER ORGANISATIONS	WORKING WITH INFORMATION
<p>Flexible Working</p> <p>Absence Management</p> <p>Safeguarding Children and Vulnerable Adults Policy and Procedures</p> <p>Harassment Policy</p> <p>Sexual, Racial and Personal Harassment Policy</p>	<p>Food Safety Services Charter</p> <p>Safer Ryedale</p> <p>Safeguarding Children and Vulnerable Adults Policy and Procedures</p>			<p>Information Security Policy Overview</p> <p>I T Access Policy</p> <p>I T Infrastructure Security Policy</p> <p>Legal Responsibilities Policy covers legislative requirements applying to data about public services which include DPA, HRA, FOI, Env Info Regs</p> <p>Remote Working Policy</p> <p>Software Policy</p> <p>Computer Telephone and Desk Use Policy</p> <p>Internet Acceptable Usage Policy</p> <p>Removable Media Policy</p> <p>I T Information Security Policy</p> <p>Government Connect</p> <p>Safeguarding Children and Vulnerable Adults Policy and Procedures</p>		

7. RYEDALE DISTRICT COUNCIL CORE VALUES

Achieving our mission requires great people who take pride in Ryedale, are committed to continuously improving the quality of life in the district and who possess the following values

Honesty and Openness

Value - We are open and honest in our relationships and in our communications

Example behaviours - Sharing information with those who need it, fairness and equity of decision making and treatment of each other, honouring our commitments to each other, fostering open communications etc. etc.

Brave and Decisive

Value - We are willing to make brave decisions, to take on big challenges and see them through

Example behaviours - challenging assumptions, pursuing facts and robust evidence, willingness to change, securing strong political support etc etc.

Positive

Value - We will nurture the positive and celebrate our successes

Example behaviours - highlighting good news, rewarding success, building on what works well, etc etc.

Respect

Value - We value every individual, respecting people for who they are and for their unique knowledge, skills and experience recognising they are part of our strength as a team.

Example behaviours - sharing ideas to inspire and learn from one another, encouraging participation from all, building strong partnerships, etc. etc.

Passionate

Value - we are passionate about our communities and the services we deliver.

Example behaviours - listening carefully and responding to the needs and expectations of our customers and our community, encouraging creativity and innovation as we constantly seek to improve our services and to enhance the quality of life in our community.

Above all, we are proud, we act with integrity, striving to uphold the highest professional standards, providing sound advice and maintaining our impartiality.

GIFTS AND HOSPITALITY

Checklist for considering whether to accept a gift or hospitality.

The question in all cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- a. Is the value of the gift or hospitality £25 or over?
- b. If under £25 is it intended as an inducement
- c. Is the extent of the hospitality, or nature of the gift reasonable and appropriate?
- d. Does the donor have any form of contractual relationship with the Council, does it provide goods or services to the Council of any kind?
- e. Is the invitation/gift directed to a large group of unrelated individuals or open to the public, or have you been targeted because of your employment with the Council and the nature of your role?
- f. What do you think is the motivation behind the invitation/gift?
- g. For hospitality do you want to go and if so why? Is it because there will be genuine benefits to the Council in terms of networking and contracts gained? Or is a desire to go centered around personal enjoyment.
- h. Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving the District Council?
- i. For gifts is there a difficulty in returning the gift? If it would cause offence can the gift be given to charity or can you pay an equivalent price of the gift to charity?

If you decide to accept a gift over £25 you must register that in the register of interests, if you decline a gift of over £25 this should also be registered with a statement that the gift has been declined.

You should consider carefully whether to register gifts and offers of gifts below £25 having regard to the issues highlighted above. The relevant form is OCC6 below.

**PERSONAL INTERESTS
LOCAL GOVERNMENT ACT 1972, SECTION 117
(see paragraph 4.8.9 of the Code)**

- 1 If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by Local Authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an Officer shall be treated as having indirectly a pecuniary interest in a contract, or proposed contract if he would have been so treated by virtue of section 95 above had he been a Member of the Authority.

- 2 An Officer of a Local Authority shall not, under colour of his office or employment, accept any fee or reward other than his proper remuneration.
- 3 Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding (level 4 on the standard scale).
- 4 References in this section to a Local Authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

**PERSONAL INTERESTS
LOCAL GOVERNMENT ACT 1972, SECTION 95
(see paragraph 4.8.9 of the Code)**

- 1 For the purposes of Section 94 above a person shall be treated, subject to the following provisions of this section and to Section 97 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:-
 - (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
 - (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration
- 2 Sub-section (1) above, does not apply to membership of or employment under any public body, and a member of a company or other body shall not be reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.
- 3 In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of section 94 above to be also an interest of the other.

**PREVENTION OF CORRUPTION ACTS 1906 AND 1916
(see paragraph 4.12 of the Code)**

- 1 The Prevention of Corruption Acts 1906 and 1916 say the following about acceptance of gifts by way of inducement or reward :-
 - (a) Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for :-
 - doing, or refraining from doing, anything in their official capacity; or
 - showing favour or disfavour to any person in their official capacity.
 - (b) Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

OFFICERS' CODE OF CONDUCT
REPORT OF OFFER OF GIFT

Name in full.....
Department.....
Post held.....
Grading / Salary

Details of Gift Offered

Date Offer Received

To whom offered?

By whom the offer was accepted?

Signature Dated

For office use only

Date form received by Line Manager, or above	
Entered in Register on	

OFFICERS' CODE OF CONDUCT

APPLICATION FOR APPROVAL OF OUTSIDE EMPLOYMENT

Name in full.....

Department.....

Post held.....

Grading / Salary

Nature of Outside Employment Sought

.....

*Is the post paid / unpaid?

Does this employment, in your view, conflict with or is it detrimental to the interests of the Council or would it weaken public confidence in the conduct of the Council's business?

.....

.....

Signature Dated

Comments of Line Manager

.....

.....

Comments of Head of Service

.....

.....

*Approved / Not Approved

OFFICERS' CODE OF CONDUCT
DECLARATION OF PERSONAL INTERESTS

Name in full.....

Department.....

Post held.....

Grading / Salary

Line Manager

Nature of Interest

.....

Your role in any relevant business of the Council

.....

How might the interest, in your view, conflict with the interests of the Council?

.....

I hereby declare that the above details correctly record any interest, which I may have, which could bring about conflict with the Council's interests.

Signature Dated

For office use only

Received	
----------	--

OFFICERS' CODE OF CONDUCT

**NOTICE UNDER SECTION 117 LOCAL GOVERNMENT ACT 1972
PECUNIARY INTEREST IN CONTRACT OR PROPOSED CONTRACT**

Name in full.....

Department.....

Post held.....

Line Manager

Nature of Pecuniary Interest

.....

Details of Contract or Proposed Contract with the Council

.....

I make the above declaration in accordance with Section 117 of the Local Government Act 1972.

Signature Dated

For office use only

Date completed form received by Council Solicitor and Head of Service or above	
Date notified to Line Manager, Head of Service or above	

OFFICERS' CODE OF CONDUCT

DECLARATION OF RELATIONSHIP WITH CONTRACTOR

Name in full.....

Department.....

Post held.....

Grading / Salary

Nature of relationship with Contractor

.....

.....

.....

Name and Address of Contractor

.....

Is this a current relationship? YES / NO

If not, when did the relationship terminate?

.....

.....

Signature Dated

For office use only

Date Received by Line Manager, Head of Service or above	
---	--

OFFICER CODE OF CONDUCT**REGISTER OF INTERESTS****Please complete the following register:-**

Name in full.....

Department.....

Post held.....

Line Manager

	Guidance	Interest (please write NONE if you have no relevant interests)
Employer	Please indicate the name of the employer of your spouse or partner, or anyone else who lives with you who makes a significant contribution to the household income (it is not necessary to register temporary, summer or part time job of a child of the household).	
Land interest	Please provide details sufficient to describe the location of any land in which you have an interest, whether it is ownership, leasehold, a tenancy or license. If you have any rights over land you should register the address or location of that land.	
Directorships, shareholding and Company Interests	In relation to any company which is based in or may operation in Ryedale, directorships, significant shareholding (ie more than £10,000 of the nominal share value) and any position of management or control in a company. This would include a position as Company Secretary or Treasurer.	
Membership of Bodies	You need only register a position of management or control in a body. You need only register interests in bodies which are: A Charities or directed to charitable purposes	

	<p>B Bodies designed to influence public opinion – these include campaign groups. You do not need to register membership of a trade union.</p> <p>C Bodies carrying out functions of a public nature: This is wide ranging and will include bodies that you are appointed to by the Council. You need not register membership of Partnerships (where you are there for the Council), but should include trusteeships, governing body membership and membership of a parish council (in Ryedale).</p> <p>D Membership of secret societies. You do not need to register membership of sports associations, secret societies or other clubs and groups but you may need to DECLARE an interest in that body if you find yourself dealing with a matter, which is relevant to that body. You must register membership of a charity (the Grand Lodge of Freemasonry is a charity).</p>	
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I declare that the above is a true statement of my personal interests.

Signature Dated

A PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Introduction

- (1) The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.
- (2) Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- (3) This protocol also reflects the Codes of Conduct which apply to Members and Officers. Those codes seek to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

2. Roles of Councillors and Officers

- (1) Both Councillors and Officers serve the public. They depend on one another, but their responsibilities are distinct. Councillors are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council: their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council and its Committees.

(It should be noted that, under the law, responsibilities can be delegated by Council to Committees, Sub-Committees or individual named Officers, but not to individual Members under the "Alternative Arrangements" detailed in this Constitution).

- (2) Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

- (3) Members must, however, respect the impartiality and integrity of all the Council's Officers. Similarly, Officers must respect the role of Members as elected representatives. It is important that any dealings between Members and Officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

3. Members' Access to Information and Council Documents

- (1) The Council believes in open government. Information will generally be freely available to all Members.
- (2) This approach has to be qualified, however, in relation to certain appropriately confidential information. Moreover, devoting a significant amount of staff resources to identify and collate information of marginal benefit could not be justified.
- (3) Where, in a Service Manager's view, a request for information will require a significant amount of staff resources to provide the information, which he/she feels unable to commit, he/she should seek guidance from his/her Director so that a satisfactory solution, in consultation with Members, can be found. In the event of a dispute, a decision will be made by the Chief Executive in consultation with the Leader of the Council.
- (4) Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council, Committee or Working Party meeting. This right applies irrespective of whether the Member is a Member of the Committee or Working Party concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- (5) In addition to inspection of reports to Council, Committees and Sub-Committees, and papers on which the production of those reports relied, which are available to the public under the Access to Information legislation, the common law right of Members is much broader. It is based on the principle that any Member has a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council.

- (6) The proper exercise of this common law right depends on whether it is reasonably necessary for the Member to have the information in order properly to perform his/her duties. The propriety of a request for information must initially be determined by the particular Director who holds the document in question. In the event of a dispute, a decision on the point will be made by the Monitoring Officer in consultation with the Chairman of the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.
- (7) Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. A Member should never disclose or use confidential information for the personal advantage of him/herself or of anyone known to him/her, or to the disadvantage or discredit of the Council or anyone else.

4. Breach of Confidentiality

Any unauthorised disclosure of confidential information constitutes a breach of the Code of Conduct for Members. In this event, the Monitoring Officer shall refer the matter to the Standards Board for consideration.

5. Personal Abuse or Unfair Criticism

- (1) Members shall abide by the Council's Code of Conduct.
- (2) Officers, whether individually or collectively, shall not be the subject of personal abuse or unfair criticism in connection with any statements made by them which are made within their professional remit, for example at any meetings of full Council or any Committee or Working Party. Where the Monitoring Officer considers that this part of the protocol has been breached, he/she shall report the matter to the next meeting of the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee.

for consideration and onward recommendation to Council.

- (3) Similarly, Members shall not be the subject of personal abuse or unfair criticism by Officers. Where the Monitoring Officer considers that this part of the protocol has been breached, he/she shall report the matter to the Head of Paid Services and Head of Organisational Development for consideration under the Council's Disciplinary Procedures.

6. Officer Advice to Committees, Working Parties and Political Group Meetings

- (1) It is essential that such advice is impartial and to the highest professional standard. In order to ensure such standard is maintained, the Head of Paid Service will determine which Officers should attend political group meetings. (Heads of Service will decide who should attend Committees, Sub-Committees and Working Parties).
- (2) There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making bodies. Officer support is available to all political groups and individual Members. Any request for Officer support should be made to the relevant Head of Service.
- (3) Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:-
 - (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed.
 - (ii) Political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not

therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.

- (iii) Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee when the matter in question is considered.
- (iv) Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council's Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and, for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members-only meeting.
- (v) Officers must respect the confidentiality of any political group discussions at which they are present. They should not relay the content of any such discussion to another political group or to any individual.
- (vi) Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

7. Support Services to Members and Political Groups

- (1) The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with political or campaigning activity or for private, business or social purposes.

- (2) Any private use of telephones and fax machines or the Council's Internet services must be reported to the ICT Manager and a charge for this use may be made.

8. Officer/Policy and Resources Committee/Member/Chairman Relationships

- (1) It is clearly important that there should be a close working relationship between Policy and Resources Committee Members, the Chairmen of Committees, the Chief Officers, Heads of Service and Service Managers of any Service Unit who report to the Policy and Resources Committee or other Committees. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question the Officers' ability to deal impartially with the Member(s) concerned or other Members.

- (2) On those occasions when the Leader of the Council or Chairman of a Committee (as appropriate) is consulted as part of the process of drawing up the agenda for a forthcoming meeting, the Head of Paid Service concerned will have ultimate responsibility for the final content of that agenda because settling the agenda constitutes an executive act which cannot be delegated to an individual Member.

(Note: If full Council, a Committee or Sub-Committee has previously instructed that a specific matter should appear on a future agenda, then that item will automatically appear, because that instruction is an executive act).

- (3) Similarly, the Chief Executive, Corporate Director, Head of Service or Service Manager will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chairman and an Officer in this area should be referred to the Head of Paid Service for resolution, in consultation with the Chairman of the Council.
- (4) In relation to action between meetings, it is important to remember that the law only allows for decisions (in relation to the discharge of any of the Council's functions) to be taken by a Committee or an Officer.

- (5) Finally, it must be remembered that Officers within a Service Unit are accountable to their Service Manager and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given.

9. Officers' Delegated Powers

- (1) The Council gives delegated authority to certain Senior Officers to act on the Council's behalf. The terms of that authority frequently require the Officer to consult certain Members, e.g. the Chairman of a Committee. In other cases, the Officer should decide whether to consult, as a matter of courtesy.
- (2) If a matter relates solely to a particular Ward, the Officer with delegated authority shall consult the appropriate Ward Member(s), subject to the provisions of paragraph (1) applying.

10. Correspondence

- (1) Correspondence between an individual Member and an Officer should not be copied by the Officer to any other Member without the Member's consent. However, where such correspondence concerns Council policy, or the interpretation of Council policy, in this instance a copy should be sent to the Leader of the Council and Chairman of the relevant Committee, together with the Chief Executive and relevant Head of Service and Service Manager, and this should be made clear to the original Member. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the Member involved.
- (2) Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the rule. Moreover, it is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out over the name of a Member, as this would constitute an executive act, which cannot be delegated to an individual Member.

11. Involvement of Ward Councillors

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

12. Presentation of Council Policy and Practice

All Officers are expected to explain and promote Council policy and practice, but not to engage in party political disputes. Where there is, or is likely to be, criticism, from whatever source, of Council policy and practice, it is incumbent on Officers to assist the Council in explaining and promoting the particular policy or practice in issue.

PROTOCOL ON ATTENDANCE AND QUESTIONING AT OVERVIEW AND SCRUTINY COMMITTEE

Overview and Scrutiny Committees have the power to require the attendance of officers and members of the authority before the Committee, and may invite other persons to attend. The process by which the attendance of members and officers at overview and scrutiny committees is secured (reflecting the obligation under S.21(13) LGA2000) is for councils to set locally. This Protocol sets out a procedure for securing the attendance of officers and members, and for inviting other persons. It sets out the obligations of the Committee and of the officer or member.

1. Persons to be summoned or invited to attend shall be identified either by resolution at a meeting of the Committee or by the Monitoring Officer in consultation with the Chairman of the Committee. Any member of the Committee may request the Monitoring Officer to secure the attendance of a named person by making a request to the Monitoring Officer in writing, identifying the issue in respect of which the person's attendance is requested and the reason why the attendance of the person would assist the Committee in the performance of its functions. Upon receiving such a request, the Monitoring Officer shall consult the Chairman of the Committee and then take a decision as to whether to summon or invite the person concerned.
2. Where a person is to be summoned or invited to attend, the Monitoring Officer will give them at least 5 working days' written notice of the time, date and place of the Overview and Scrutiny Committee's meeting, and will inform them of the subject in respect of which their attendance is required/requested, provide them with any supporting documentation, and state whether any written reports are required to be produced, by whom and by what date. The member or officer required to produce the written report will be given adequate time for the preparation of that document.
3. Where an officer is required to deal with a specific topic, the Monitoring Officer will first consult with either the Chief Executive or the Corporate Director on the most appropriate officer to attend, before determining who to summon to attend.
4. Where the Committee requires the attendance of any officer other than a Chief Officer with responsibility for the service, the relevant Chief Officer will always be permitted to attend, or to send a representative, if he or she wishes to respond personally to the enquiries of the Committee in addition to any officer summoned.

5. No officer below Service Manager or similar grade may normally be required to attend before Scrutiny unless agreed by the Chief Executive or Corporate Director.
6. A member or officer so summoned may ask for an alternative date for attending before Scrutiny where for good reason he cannot attend on the date first specified.
7. Where any member is summoned to attend, they may require the Chief Officer responsible for the matter under consideration to attend with them, and to produce any documents relevant to the issue.
8. Scrutiny Committee sessions in which a member, officer or other person attends as summoned or invited shall be managed by the Chairman in a manner which ensure mutual respect between all those participating.
9. Where the response to any questions in the opinion of the Chairman or on the advice of the Monitoring Officer would be likely to disclose confidential or exempt information within the meaning of Schedule 12A Local Government Act 1972 the Chairman shall move that the answer is taken in confidential session and the question shall be put without second or debate. No person giving evidence to a Scrutiny Committee shall be under any obligation to disclose publicly personal information about an employee, child in care or at school or any recipient of council services.
10. Scrutiny Committees should not summon officers to attend or undertake work at times and dates where that would risk serious prejudice to the provision of services.
11. Reflecting Article 6 of the Human Rights Act 1998, where it appears at any time to a Scrutiny Committee, or the Monitoring Officer so advises, that:
 - (a) a member, in responding to a question, might be required to admit to conduct which constitutes a breach of the local code of conduct, the member may decline to answer the question and the issue shall then be reported to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee by the Monitoring Officer for consideration and investigation if deemed necessary; and,

- (b) an officer, in responding to a question, might be required to admit to conduct which constitutes a breach of the officer code of conduct or other grounds for disciplinary action, the officer may decline to answer the question and the issue shall be reported by the Monitoring Officer to the Chief Executive for consideration and investigation if deemed necessary.
12. Where the authority is conducting a Best Value Review of a service and Scrutiny Committee enquiries are also proposed the Chairman of the Review and Scrutiny will liaise to ensure no duplication of effort and the avoidance of any publicity which might pre-empt the review.
13. In deciding whether to summon a particular officer or member and in questioning any person, the Scrutiny Committee and all members thereof shall accord with Article 8 of the European Convention on Human Rights and respect the rights of individuals to respect for private and family life, home and correspondence. Accordingly it shall only question a person in respect of their private and family life, home and private correspondence where such questioning is clearly required for the purpose of:
- National security
 - Economic well-being
 - Public safety
 - Prevention of crime
 - Protection of health and morals, or
 - Protection of the rights and freedoms of others

and the public interest in pursuing such questioning clearly outweighs the interests of the individual.

Where such issues arise, the Committee shall take prior advice of the Monitoring Officer regarding its ability to pursue enquiries into the matters.

Planning Code of Practice

1. THE NEED FOR A CODE

- 1.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.
- 1.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

2. SCOPE OF THE CODE

- 2.1 This guidance note sets out the practices which Ryedale District Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of District Council Officers and Members on planning matters.
- 2.2 It applies to both Councillors and Officers who are involved in operating the planning system - it is not, therefore restricted to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.
- 2.3 Both councillors and officers are guided by codes of conduct. The statutory local code of conduct, supplemented by guidance in a document called "Probity in Planning for Councillors and Officers" published by the Local Government Association/Planning Advisory Service, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct.

Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The District Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Standing Orders set down rules which govern the conduct of Council business.

- 2.4 Whilst this Code, and the others referred to above, attempt to be as clear as possible, ***if in doubt about how the guidance applies in particular circumstances seek advice***. Officers should seek advice from the Head of Planning. Members can seek advice from the Head of Planning or from the Council Solicitor as appropriate.
- 2.5 Appendix 1 also contains a list of other guidance on planning which is available from the Council.
- 2.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the Council prepares a Local Plan. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contravenors in enforcement cases, and to landowners, developers and objectors involved in Local Plan proposals. The guidance applies to planning matters on which a decision will be taken by the District Council, but not to planning matters which are the responsibility of other Councils.

3. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 3.1 Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the District. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and

an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

3.2 Therefore:

- ***Individual Councillors should not give instructions to Officers on planning matters.***
- ***Officers' actions will follow Council policy and Committee decisions.***
- ***Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.***

3.3 The Members' Code of Conduct sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see next section), but also appropriate relationships with other members, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors serving on planning committees is the requirement in the Members' Code of Conduct that a member must comply with the following guidance:

- *Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.*
- *Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.*

3.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor

put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a Planning Committee.**

3.5 Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;
- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence;

These guidelines should apply to all Planning Officers. A requirement for staff to act impartially is likely to be a requirement of the statutory employees code. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities of senior staff, such as membership of political parties and serving on another Council.

3.6 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Members' Code of Conduct. Members are placed under a requirement by the Members' Code of Conduct to:

- *Always treating people with respect, including the organisations and public I engage with and those I work alongside; and*
- *Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.*

- 3.7 The principles in Part 1 of the Members' Code of Conduct should guide the conduct of all Councillors. The general principles are attached at Appendix 7. In summary:

The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the District as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.

4. WHAT PLANNING DECISIONS ARE BASED ON

- 4.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

- 4.2 ***It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.***

- 4.3 Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that planning decisions shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of:

- The Ryedale Local Plan

- 4.4 Other material planning considerations include:

- Government guidance contained, for example, in the National Planning Policy Framework, Circulars and Ministerial announcements;

- planning briefs and other 'supplementary planning documents' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

4.5 There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;

- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

5. DUTIES AND SANCTIONS

As a Local Planning Authority for that part of the District of Ryedale which is outside the North York Moors National Park area, Ryedale District Council has a statutory duty to determine applications which are not County matters under the Town and Country Planning Act 1990 together with applications under the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning Committee exercises the District Council's statutory Local Planning Authority function and is the decision maker for the purpose of determining applications. Decision makers have a very special responsibility and have a number of statutory duties. There are

also sanctions against the Council and Members for a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

6. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- (i) identify the development plan policies which are relevant to the particular development proposal;
- (ii) identify any other material considerations;
- (iii) if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an up to date adopted development plan. Exceptionally, the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the character of a local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

At a fundamental level, Members should go through the following three stage process when making a decision:-

Stage 1

- (i) Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.
- (ii) Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her

popularity in the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

Stage 2

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Less weight is generally attached to personal circumstances. When they arise they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 13 of The Planning System: General Principles (2005) indicates that Members must have proper regard to Government Statements of Planning Policy which indicates the weight to be given to relevant considerations. If Members elect not to follow relevant statements of the Government's Planning Policy, they must give clear and convincing reasons.

Stage 3

Weigh the material considerations in reaching a decision.

A visual representation of this 'weighing' exercise is attached as Appendix 3 for consideration by Members.

A failure to follow the proper decision making procedure can give rise to a Judicial Review Challenge or a finding of maladministration by the Local Government Ombudsman.

- ***In the decision making process, Members should not take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government guidance on the weight to be attached to relevant considerations.***
- ***Members should determine applications in accordance with the advice given to them by their professional officers unless they have good***

planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.

7. LOBBYING OF AND BY COUNCILLORS

7.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

7.2 Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration, or to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee that a Member has breached the local code.

7.3 A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that

he/she has kept an open mind and has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this would not amount to a prejudicial interest in terms of the Members' Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to make it clear that they are willing to listen to all the considerations presented at the Committee before deciding how to vote. A Member may listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

7.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the Members' Code of Conduct with General Principles of Local Government in Part 2 – Outcomes requires in “Championing the needs of residents”. However, the following guidance will be appropriate in most cases.

7.5 *Councillors who are lobbied on a planning matter before the Planning Committee meets to consider it:*

- *may listen to what is being said;*
- *may give procedural advice (eg to write to the Planning Department, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Committee or the Head of Planning, how decisions are reached through Officer recommendation/ Planning Committee).*
- *should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;*
- *should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;*
- *should make it clear that Councillors are legally required to keep an open mind and will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;*

- *should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application (or enforcement case or Local Plan proposal);*
- *should not negotiate detailed planning matters with applicants, agents, objectors, etc;*
- *should pass relevant correspondence to the Case Officer prior to any Committee meeting;*
- *should report instances of significant, substantial or persistent lobbying to the Head of Planning or the Council Solicitor.*

7.6 Councillors who have openly declared their voting intention (on a planning or any other application, enforcement case or Local Plan proposal) in advance of the relevant Committee meeting should make an open declaration and not vote because they could be considered to have fettered their discretion. In those circumstances a Member should not speak and vote as a Member of the Planning Committee but may speak as a member of the public.

In such cases the Member has been excluded not because of the code but because the Member's previous actions have fettered his/her discretion and possibly laid the Council open to the objection that the planning process had been tainted.

7.7 To avoid impressions of improper influence which lobbying by Members can create:

- Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the District Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;
- Councillors should not put pressure on Officers for a particular recommendation;
- Political group meetings should not be used to decide how Members should vote on planning matters;
- Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or Local Plan proposals to be determined by the District Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.

- Whenever a Member is approached or lobbied on any particular application Members should consider distributing on a regular basis the Advice Note attached as Appendix 4 which makes clear the neutral stance which Members need to adopt to remain independent and impartial pending consideration of all the material facts at the Committee meeting.
- If Members attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors.
- Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.

8. PRE-APPLICATION AND PRE-DECISION APPLICATIONS

8.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about Local Plan policies, etc before proposals are designed; and so they can improve the quality of applications and development.

8.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.
- Advice should be consistent and based upon the development plan and material considerations.

- Where the Head of Planning is the decision-maker (for delegated matters - see section 16), he/she should normally not meet the applicant, agent or objectors to discuss a case without another Officer present. A written note should be made of all discussions. At least one Officer should attend such meetings; it may be helpful for more than one person to attend. 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.
- Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.

8.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.
- Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.
- Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally by pass this procedure.
- Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.

9. REGISTRATION OF INTERESTS

9.1 The Localism Act 2011 and the Members' Code of Conduct place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and Councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

9.2 Failure to register or disclose a disclosable pecuniary interest will be punishable upon conviction by a fine of up to and including Level 5 (£5,000). In addition, the Magistrates' Court may on conviction disqualify a Member from being a Member of a Council or any other relevant authority for up to five years. Breaches of the Members' Code of Conduct in relation to a failure to declare other pecuniary interests and non-pecuniary interests can only be dealt with as a breach of the Code. Prosecutions for a breach of the legislation relating to disclosable pecuniary interests may only be brought by or on behalf of the Director of Public Prosecutions. The DPP is unlikely to authorise a prosecution unless the breach of the legislation is considered serious.

9.3 A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office using the register of interests form. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

10. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

10.1 The new Members' Code of Conduct introduced under the Localism Act 2011 introduces the following two separate and distinct sets of rules in relation to declarations of interests:

- (1) Disclosable Pecuniary Interests; and
- (2) Disclosable Other Personal Interest.

10.2 **Disclosure of Pecuniary Interests (DPI)**

Disclosure of Pecuniary Interest (DPIs) are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. These are listed in the last two pages of the Members' Code of Conduct.

10.3 A Member has a Disclosable Pecuniary Interest in relation to a matter being discussed at Committee if it directly affects the financial position of the Councillor or the financial position of a Councillor's partner or spouse in particular:

- employment, employers or businesses;
- companies in which they are a director or where they have a shareholding of more than £25,000 face value or more than 1% of nominal share holding;
- land or leases they own or hold;
- contracts, licenses, approvals or consents

10.4 the Councillor's Disclosable Pecuniary Interests include the Councillor's Pecuniary Interests or interests of:

- spouse or civil partner;
- a person living with the Councillor as husband/wife;
- a person living with a Councillor as if they are civil partners/and the Councillor is aware that this other person has the interest;

10.5 If a Member has a DPI in any matter, he/she must not participate in any discussion of the matter at the meeting. The Act does not define "discussion". Members must not participate in any vote on the matter.

10.6 **Disclosable Other Personal Interest**

In general terms, in relation to Disclosable Other Personal Interests, Members will need to ask themselves two questions when deciding if they can participate in the consideration of a matter to be determined by Committee or Council:-

10.7 Firstly – Do I have a personal interest?

Yes if your interest falls within the definition of a “personal interest” as defined in the code. Please refer to Part B of the Members’ Code of Conduct.

Councillors need to ask themselves the following questions:-

- A. Have I declared an interest in the Register of Interests?
- B. Does it affect the well being or financial position of myself, my family, close associates; or my family’s or close associates:
 - employment, employers or businesses;
 - companies in which they are a director or where they have a shareholding of more than £25,000 face value;
 - business partnerships; or
- C. Does it affect the well being or financial position of the following organisations in which I hold a position of general control or management:
 - other bodies to which I have been appointed or nominated by the Council;
 - other public authorities;
 - charitable bodies;
 - bodies whose main purpose is to influence public opinion or policy.

More than the majority of other people in the ward?

Where a Member considers he/she has such a personal interest in a matter, he/she must always declare it, but it does not then necessarily follow that the personal interest debar the Member from participation in the discussion.

10.8 Secondly – Is my personal interest pecuniary/prejudicial?

The Member then needs to consider whether the personal interest is a **pecuniary/prejudicial** one. The Code provides that in general terms a personal interest becomes a pecuniary/prejudicial one if the interest is financial or relates to a regulatory issue eg planning permission and the following test is satisfied:

“Non Participation in case of Pecuniary Interest

Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would

reasonably regard as so significant that is likely to prejudice your judgement of the public interest and where that business-

- (a) affects our financial position of the financial position of a person or body described in paragraph 10.7 above; or*
- (b) relation to or affects the determining of any approval, consent, licence, permission or registration in relation to your or any person or body described in paragraph 10.7 above”.*

10.9 If a Member has such a personal and pecuniary/prejudicial interest, he/she should not participate in a discussion on the matter at Committee and *must withdraw from the room* and must not seek improperly to influence a decision in the matter.

10.10 It must be emphasised that the rules relating to the declaration of interests are not like a mathematical formula in which there is always a right answer and Members will always know when they should declare a pecuniary/prejudicial personal interest and leave the Committee Chamber.

10.11 Part of the new Code which deals with declarations of interest is a framework for Members to exercise a reasonable judgement – after taking advice from either myself, as the Council Solicitor or another Senior Officer.

10.12 If the interest is clear and substantial a Councillor should not take part in the proceedings and should always withdraw from the meeting whilst the matter is being considered.

10.13 A failure by a Councillor to declare a personal and pecuniary/prejudicial interest in accordance with Code of Conduct can give rise to a complaint to the Corporate Governance Standards Sub-Committee of Ryedale District Council has been set up in accordance with requirements established by Parliament to regulate the conduct of Members.

10.14 It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in

that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. Guidance may be sought from the Monitoring Officer or other Senior Officers. In the end, however, the decision will be for the councillor alone to take.

- 10.15 Translated to a councillor's involvement in planning issues, the two stage test of personal and pecuniary prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.
- 10.16 However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account -they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of judicial review. This is the general approach taken by this guidance on appropriate conduct in relation to membership of other bodies and the effects of such membership on participation in the planning decision-making process. It is expanded in section 7 on lobbying.
- 10.17 There will be occasions when members of say the Policy and Resources Committee will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority for the development in question. In that sense, the member becomes almost the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.

10.18 The Council's Constitution requires that a Councillor who declares a pecuniary/prejudicial personal interest should withdraw from the relevant Committee meeting and take no part in speaking or voting on that item.

10.19 Members who need to declare a personal interest on a case should do so at both the Planning Committee and the Policy and Resources Committee.

10.20 Appendix 5 gives some specific examples of when it has been felt necessary to declare an interest, which may help to amplify the above general guidance.

11. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

11.1 Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Head of Planning or the Council Solicitor of the breach in writing.

11.2 Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Head of Planning and the Council Solicitor and be the subject of an enforcement report to the Planning Committee.

12. PARISH OR TOWN COUNCIL MEMBERSHIP

12.1 The Council consults the relevant Parish or Town Council or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish or Town Council meeting early in the life of an application.

12.2 Difficulties can arise for Councillors who are members of a Town or Parish Council as well as the District Council. By taking part in a Parish or Town Council meeting when their comments on an application are agreed, a District Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making District Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member should not participate at the district council meeting.

In such cases the member has been excluded not because of the code but because the member's previous actions had fettered his or her discretion and

possibly laid the council open to the objection that the planning process had been tainted. So, a member has to choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

'Dual' Members should therefore either:

- ***not take part in the discussion of an application at the Town or Parish Council meeting at which comments are agreed; or***
- ***not take part in the discussion/decision on the application at the District Council Committee;***

Furthermore:

- ***although the consultation response from a Parish/Town Council is a relevant consideration, Members should not automatically defer to the Parish/Town Council view, because Parish/Town Councils do not have the advice of professional Planning Officers in reaching their decision.***

13. OFFICER REPORTS TO COMMITTEE

13.1 To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications, enforcement cases and Local Plan proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed by the Head of Planning, and/or the Development Manager (as the Council's Senior Chartered Town Planners), and will reflect the collective view of the Department - not the view of the individual author.

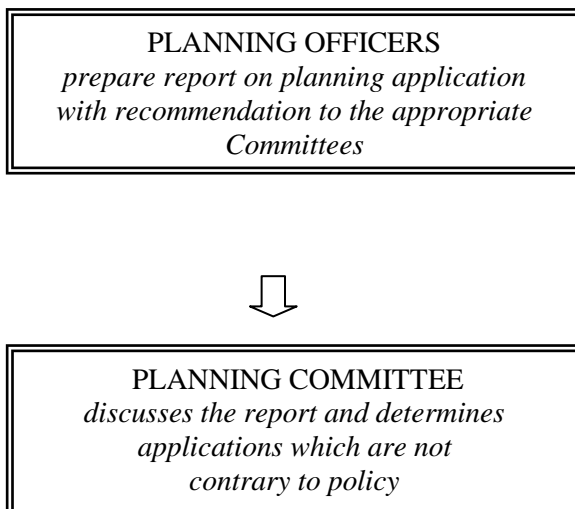
13.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and Local Planning policies and their implications for the case; the site or related history (where relevant) and any other material considerations;

- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any planning agreement or obligation proposed in association with the planning permission.

14. COMMITTEE PROCEDURES

14.1 Decisions for most planning applications are taken by the Council’s Planning Committee which includes Members of the Council. The procedure for processing planning applications may be summarised as follows:-



14.2 Reports are available to the public five working days before the Committee on request. Paragraph 13.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council’s public speaking policy.

- 14.3 The Planning Committee may agree or disagree with the report and recommendation (but see sections 17 and 18 below). Having considered all the relevant planning matters, the Committee may:
- grant planning permission, usually with appropriate planning conditions;
 - refuse planning permission, with justified planning reason(s);
 - defer the application for further consideration.
- 14.4 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the Council is considering a prosecution in the courts. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.
- 14.5 Decisions on Local Plan proposals are taken by the Planning Committee, following consideration of a written Officer report.
- 14.6 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by officers. To facilitate this:
- ***a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation is explained, and to identify any potentially problematic or controversial items;***
 - ***one or more Chartered Town Planners will be present at all Planning Committee meetings at which planning matters are considered;***
 - ***a Legal Officer will normally also be present.***

15. COMMITTEE SITE VISITS

15.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations. Site visits should not be employed merely to appease local interest in an application.

15.2 However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- ***A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.***
- ***The reasons for a site visit should be clearly stated and minuted.***
- ***All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Committee meeting.***

15.3 Site visit meetings will be conducted in a formal manner:

- ***The Chairman should start by explaining the purpose and conduct of the site inspection adding that any questions or comments from any individual should be made to all the Members through the Chairman.***
- ***The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.***
- ***The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.***
- ***The applicant and representative of the Parish/Town Council may attend the site inspection and will be invited to draw Members' attention to any salient features or to any relevant factual information.***
- ***To avoid Members being spoken to individually, the Chairman should endeavour to keep the Committee together as a group.***

- ***No discussion or decision-making will take place on site.***
- ***No hospitality will be accepted before, on or after site visits.***
- ***Members or Officers who have a disclosable pecuniary interest or non-pecuniary interest which means they should not participate at Committee on determining the application should not attend a site inspection.***
- ***In all other cases Members should declare when appropriate a non-pecuniary interest.***

16. DECISIONS DELEGATED TO OFFICERS

16.1 The Council has agreed that decisions on certain types of application can be taken by the Head of Planning. These are less contentious, small-scale proposals, such as house extensions, advertisements, small industrial extensions, the discharging of planning conditions and breaches of planning conditions imposed by a Committee. The full list of decisions delegated to the Head of Planning is set out in Appendix 6. The system allows quicker decisions to be taken on straightforward matters.

17. DECISIONS CONTRARY TO DEVELOPMENT PLAN

17.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 4.3).

17.2 ***If Officers are recommending granting planning permission contrary to the development plan:***

- ***The decision will always be taken by the Committee, and not as a delegated decision.***
- ***The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.***
- ***The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 Article 13.***

17.3 If the decision would be a significant departure from the Development Plan, (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State for Communities and Local Government,, to enable him/her to decide whether to 'call in' the application to be decided centrally.

18. DECISIONS CONTRARY TO OFFICER ADVICE

18.1 If the Planning Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be material planning considerations (see section 4 above);*
- *the Planning or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and, if an approval is proposed, to recommend appropriate planning conditions;*
- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would be significant departure from the plan requiring reference to the Secretary of State (see section 16 above);*
- *where the Planning Committee indicates that it is not minded to accept the Officers recommendation for approval, the planning application should be deferred to the next Planning Committee meeting where so requested by the Head of Planning. This one month deferral period enables Officers to prepare clear and convincing planning reasons for refusal;*
- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file and recorded in the minutes of the Planning Committee; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

18.2 If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes.

19. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

19.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

19.2 The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:-
 - insufficient weight has been given to Officers' recommendations and Central Government guidance; and
 - there is a failure to give and record reasons for the authority's change of mind.

19.3 Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

19.4 Therefore:

- ***If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.***
- ***If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.***

20. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

20.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

20.2 For planning proposals from Officers and Councillors:

- ***Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.***
- ***Such proposals will be reported to Committee and not dealt with by the Head of Planning under delegated powers.***
- ***The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officers report to the Committee will show that the applicant is a Councillor.***
- ***Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.***

20.3 For proposals submitted by close relatives and friends of Officers involved with the development control process:

- ***The Officer concerned will have no involvement with the application.***
- ***The Officer concerned should alert the Head of Planning to the proposal.***

20.4 Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

20.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

21. THE COUNCIL'S OWN DEVELOPMENTS

21.1 Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development will be reported to Committee and not dealt with by the Head of Planning under delegated powers.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

22. THE MEDIA

22.1 The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- ***have regard to the points made in the section on lobbying (Section 7);***
- ***ensure that they do not give the impression that they have pre-judged the planning application;***
- ***make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;***

- ***for delegated applications, make clear that the Head of Planning will retain an open mind until such time as the full facts are available and presented for decision.***

22.2 Any Officers can provide facts about a planning matter which are in the public domain and available to the media (see guidance note on the Local Government Act 1972). However, the media should be referred to the Head of Planning for attributable comments.

23. RECORD KEEPING AND COMPLAINTS

23.1 The Council has its own Complaints Procedure, and a separate leaflet is available. Complaints are first investigated within the Department by an Officer more senior than the Case Officer. If the complaint cannot be resolved within the Department it will be investigated separately by the Council's Customer Relations/Complaints Officer.

23.2 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 could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- ***The main source of this documentation will be Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.***
- ***For delegated applications, a formal note of the main planning considerations is written and kept on file.***
- ***These principles apply equally to enforcement and Development Plan matters.***
- ***All Committee reports and delegated decision reports will be checked and agreed by the Head of Planning and/or the Development Manager.***

- ***A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.***

23.3 Section 13 gives more details on what reports contain.

24. TRAINING

24.1 As section 4 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Planning Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should attend.
- Members newly elected to the Council must attend a training event on planning within their first year on the Council. A special training event for Members will be held after each four-yearly election of all Members.
- The Council will employ a Chartered Town Planner as Head of Planning, and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

25. LEARNING FROM PAST DECISIONS

25.1 The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by the Planning Department Managers of a

selective number of planning decisions which will be appraised by visiting the sites, considering where appropriate any complaints to learn from experience.

25.2 The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

26. HOSPITALITY

26.1 ***Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.***

26.2 Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £50, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

26.3 Similarly, officers, during the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a hospitality book to record such offers whether or not accepted. This book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.

26.4 The presumption should be that any gift is normally refused.

APPENDIX 1: OTHER GUIDANCE

FROM RYEDALE DISTRICT COUNCIL

Code of Conduct for Members
Code of Conduct for Employees
Council's Constitution

FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute, June 1997.

'Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.

'Probity in Planning', Local Government Association, April 2013

'The Role of Elected Members in Plan Making and Development Control', RTPI, 1997.

'Planning Authorities and Racist Representations', RTPI, July 1996.

APPENDIX 2: DUTIES AND SANCTIONS

1. DUTIES OF MEMBERS

In determining applications, the Area Planning Committee and Policy and Resources Committee are not bound to follow the Officer's recommendation contained in a report. The relevant Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses: Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.

- (vi) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (vii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (viii) Members have a statutory duty when determining planning applications which affect land in an Area of Outstanding Natural Beauty, to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty: Section 85 of the Countryside and Rights of Way Act 2000.

2. SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

(2) **EXTERNAL AUDITOR**

The external auditor may take action under the Audit Commission Act 1998. The external auditor may under section 17 make an application for a declaration that an item of account is contrary to law. The external auditor may also make a report under section 8 (reports in the public interest);

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;
- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning

reasons for approving a planning application where a planning application for substantially the same development has previously been refused;

- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;
- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;
- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the plaintiff succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the plaintiff's action to be awarded against the Council.

(5) **THE "CALL IN" POWERS TO THE SECRETARY OF STATE**

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

The most recent example of this power being exercised is the Secretary of States decision to revoke a planning permission for a superstore in Alnwick. The supermarket group Safeway is demanding more than £4.6 million compensation from Alnwick District Council, which is the third smallest district council in England. The Secretary of State concluded that Alnwick District Council was grossly wrong to grant planning permission for a supermarket on the grounds inter alia that it was contrary to national planning guidance and structure and local plan policies.

APPENDIX 3: THE DECISION MAKING PROCESS - “WEIGHING” MATERIAL CONSIDERATIONS

THE DETERMINATION OF PLANNING APPLICATIONS

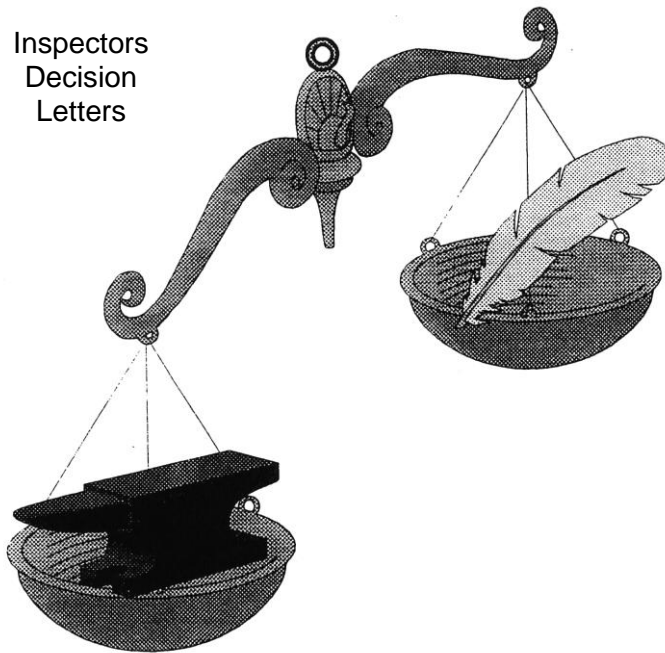
“WEIGHING” MATERIAL CONSIDERATIONS IN REACHING A DECISION

REFUSAL

National Policy

Structure and
Local
Plan Policy

Inspectors
Decision
Letters



APPROVAL

Personal
Circumstances

“Security”

THIS VISUAL REPRESENTATION
IS FOR ILLUSTRATIVE

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8

RYEDALE DISTRICT COUNCIL

Advice from

This note is produced to help explain how a District Councillor acts in respect of your enquiry about planning issues.

Thank you for asking me about your case. I will do all I can to see that the matter is dealt with fairly, and as quickly as possible.

One of my roles as your “Ward Representative” - ie as your elected Councillor - is to listen, and to assist you through the necessary processes. The planning process is very complex and involves consulting many different people. Their views may not coincide.

The Council has adopted planning policies after wide public consultations, and your views on the matter you have raised will be considered with those policies, as important factors.

If all the consultations and comments agree about a planning issue and it remains uncontroversial, it is likely that a planning decision will be issued by the Officers, under powers delegated by the Council.

Where there is conflict, the Officers will make recommendations to the Planning Committee.

As a District Councillor, I am able to attend the Planning Committee for the Ward I represent and speak on an item which is reported if I am a Member of the Planning Committee.

If I have a professional personal interest, which must be declared, I will put you in touch with another Councillor who can assist you.

It is not possible for me to give you any commitment for support until I have heard all the facts, and if this is a contentious matter this is unlikely to be until I am given all the information in the report at the Committee meeting.

Please note that I may be approached by others with a different point of view to yours and, after I have weighed up all the facts, I may not wish to speak in favour of your point of view.

You are encouraged to put your views in writing addressed to the Council’s Head of Planning so that all Councillors will know your views in the Committee report.

Whatever my personal opinion, I respect your right to yours, and I shall endeavour to ensure that your view is clearly understood.

APPENDIX 5: EXAMPLES OF DECLARATIONS OF INTEREST

The following are examples of cases (from other authorities) considered by the Local Government Ombudsman:-

- (i) Discussion of planning applications at political group meetings.

In this case the Ombudsman commented:

“The use by the majority group of party discipline to determine planning applications was also maladministration. Members have to decide these matters on facts and material planning consideration. It is inappropriate to establish party policy on whether facts exist and on what weight should be attached to them”.

- (ii) Voting by member who was a life member and season ticket holder of a football club.

The member declared an interest but did not withdraw from the meeting. This amounted to maladministration.

APPENDIX 6: WHICH TYPES OF APPLICATION ARE DELEGATED?

HEAD OF PLANNING

The matters listed below are delegated for decision/determination to the Head of Planning

(iv) PLANNING COMMITTEE PROTOCOL

This Planning Protocol is intended to provide a guide to the exercise by the Head of Planning of delegated powers in relation to the Planning and Listed Building functions.

This Protocol comprises two elements showing the division of responsibility between the Planning Committee and the Head of Planning:

- (i) a Process Map; and
- (ii) text intended to provide a plain English guide to terminology.

This Protocol should be read in conjunction with the delegation scheme for the Head of Planning.

Planning Applications Process Map

Committee Decisions	Delegated decisions
Major Development Applications	Major Development Applications
<ul style="list-style-type: none"> • All major category applications eg more than 9 dwellings, more than a hectare, commercial applications more than 1000m² 	<ul style="list-style-type: none"> • The refusal of major applications on the grounds of inadequate or incomplete information. • The refusal of major applications which are repeat applications of the same or similar proposals which have previously been refused by the Local Planning Authority within the preceding 12 months. <p style="text-align: center;">BVPI target 60% in 13 weeks 10-12 applications per year in Ryedale about 1% of total applications</p>
Minor/Other Applications	Minor/Other applications
<ul style="list-style-type: none"> • Approvals where more than one objection with reasons raising material planning considerations is received. (1) • Approval recommendations which would be contrary to policies in the Local Plan. • All applications where a clear and convincing request (2) 	<ul style="list-style-type: none"> • All approvals where there are no objections to the proposal • All approvals where non material planning objections (5) have been received • All approvals where plan revisions and or appropriate conditions are judged (6) to address third party objections. • Approvals where parish/town

<p>for referral to Committee based on material planning considerations is received from a Council Member (3)</p> <ul style="list-style-type: none"> • All applications submitted by Members of the Council; Members of staff or other close relative. The Councils own applications. • Refusal recommendations where there is a clear conflict of opinion (4) with parish/town council or third parties in relation to material planning considerations. 	<p>council and/or single third party objections with reasons are received but where there are no public interest issues (7) involved.</p> <ul style="list-style-type: none"> • All refusals where there is no explicit support (8) for the proposal from parish/town councils and or third parties. • All refusals where the decision is based on Inadequate information/quality of information (9).
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Explanatory Notes to the Planning Protocol

1. Material planning consideration – Point 4.3/4 Planning Code of conduct –

Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 38(6) Planning & Compulsory Purchase Act 2004 says that planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of:

- The Ryedale Local Plan (2002);

For the purposes of Section 119 and Schedule 8 of the Planning & Compulsory Purchase Act 2004, the transitional arrangements are that the following plans:

Ryedale Local Plan (Adopted 2002) incorporating Selective Alteration No1 (Adopted 2004)

have effect for a transitional period as from 28 September 2004.

Other material planning considerations include:

- Government guidance contained, for example, in the National Planning Policy framework, Circulars and Ministerial announcements;
- planning briefs, planning policy statements and other 'supplementary planning documents approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);

- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

2. Clear and convincing request – A written request in writing to the Head of Planning within 21 days of the date of issue of the weekly application list.

3. Council Member - This point applies to any District Council Member

4. Clear conflict of opinion – ie where parish or town councils consultees, members of the public, elected Members or other organisations recommend support or approval with reasons.

5. Non material planning objections – see Planning Code of Conduct point 4.5. The objections with reasons should be made in writing to the Head of Planning.

There is much case law on what are, and are not material planning matters. ***Planning matters must relate to the use and development of land.*** For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions***:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very

exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. Judged – the case officer in consultation with the Head of Planning will judge whether the revisions or conditions address the third party objections.

7. Public interest issues – Development Control is about controlling development in the public interest ie a householder extension at the rear of the property, not perceived outside the site is an example of an application of limited impact with little or no public interest. Whereas an application for new dwellings in a prominent site readily visible from an adjacent footpath would have considerable public interest issues.

8. Explicitly support – A “No comments”, “No Objection”, support/approval with no reasons raising **material planning considerations** are responses which are not considered to be explicit support for an application.

9. Inadequate information/quality of information – The Case officer in consultation with the Head of Planning will assess the adequacy of the information. An example would be poor quality of plans or inaccurate plans.

10. Conflict with local plan – ie the erection of a new dwelling in the countryside outside a development area or failure to satisfy all the criteria of a Policy in the Local Plan.

11. Major development – is defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995 as development involving:

- (a) the provision of dwellinghouses where -
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (a) (i);
- (b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (c) development carried out on a site having an area of 1 hectare or more.

APPENDIX 7

THE GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Honesty

6. Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Protocol – Councillor Call for Action

1. The Councillor Call for Action is a mechanism for enabling elected members to bring matters of ward concern to the attention of the Council, via the Scrutiny process.
2. The Constitution provides that any councillor may request that an item is placed on a Overview and Scrutiny Committee agenda, for consideration. The member making that request does not have to be a member of the Overview and Scrutiny Committee. Inclusion of the matter on the agenda is at the discretion of the chairman.
3. The Constitution also provides for the consideration of petitions submitted by members of the public. Ward councillors may encourage citizens to submit petitions as means of bringing issues of concern to the Council's attention.
4. A Call for Action will only be included on the relevant Overview and Scrutiny Committee agenda if the Chairman, in consultation with the Chief Executive, Corporate Director or Monitoring Officer, is satisfied that:
 - the councillor has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
 - the issue of concern is a matter in respect of which the council has a statutory power or duty to deal with and is not precluded by adopted council policy or legislation; and
 - the issue of concern has a demonstrable impact on a part of the whole of the councillor's ward; and
 - the Call for Action does not, in any event, relate to:
 - (a) any matter relating to a planning decision;
 - (b) any matter relating to a licensing decision;
 - (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
 - (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-committee thereof.
 - (e) any matter which is deemed a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.
5. A valid Call for Action will be considered at the next ordinary meeting of the relevant Overview and Scrutiny Committee or at a Special Meeting of the Overview and Scrutiny Committee, within 10 working days of validation, whichever is the sooner.
6. The subject matter of the Call for Action will be the subject of a report from the Corporate Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to

the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.

7. The Call for Action will be considered by the Overview and Scrutiny Committee in public sessions unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.
8. A ward councillor may address the Overview and Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
9. The Overview and Scrutiny Committee may also consider representations from any citizens of the ward affecting by the Call for Action, subject to the discretion of the chairman.
10. If the Call for Action concerns issues that fall within the remit of a Policy Committee the relevant Chairman of Committee shall also attend the Overview and Scrutiny Committee to answer questions and make any representations.
11. The ward councillor's role in the consideration of the Call for Action, as with any other formal Council business, is subject to compliance with the Members' Code of Conduct.

Petition Scheme

Ryedale District Council welcomes correspondence from the public. This policy sets out how the Council will respond to your correspondence.

1. Contact Address

The authority deals with correspondence in the form of letters, faxes, e-mails and telephone calls.

If you wish to communicate with the authority, you may know the name of the individual Councillor or officer, or the section of the Council that you wish to correspond with, and you are welcome to use their individual addresses. However, the authority's general contact addresses are as follows –

- 1.1 Letters and personal visits –
Ryedale District Council
Ryedale House
MALTON
North Yorkshire
YO17 7HH

- 1.2 Telephone – 01653 600666 (Switchboard)
The switchboard operates during normal office hours from 8.30am to 5.00pm Monday – Thursday and 8.30am to 4.30pm Fridays, except public and bank holidays. Outside normal office hours, a voicemail facility is available. Emergency out-of-hours telephone numbers are provided as follows -

- 1.3 Fax – 01653 696801

- 1.4 E-mail – democraticservices@ryedale.gov.uk

2. Petitions

The Council particularly welcome petitions as one way in which you can let your concerns be known. Set out below is how the authority will respond to petitions.

2.1 What is a petition?

- 2.1.1 A petition is a formal written request signed by many people appealing in this case to a local authority for some action in respect of a particular cause.

- 2.1.2 The Council treat as a petition any communication which is signed by or sent to us on behalf of a number of people who live, work or study in the District of Ryedale.

- 2.1.3 From December 2010 you will be able to submit and sign a petition on the Council's website and further guidance will be published about this nearer the time.

2.2 What should a petition contain?

A petition should include –

- 2.2.1 A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, the Council will ask the petition organiser whether s/he would like the petition redirecting to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, the petition will be returned to the petition organiser with an explanation for that decision;
- 2.2.2 The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;
- 2.2.3 The names of at least 100 petitioners (which can include the petition organiser) who live, work or study in the District of Ryedale. Where the petition is in paper form, this should include an actual signature from each petitioner. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You should include the addresses of petitioners. If you want your petition to be debated at a meeting of the Council (“[A Petition for Debate](#)”), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report (“[A Petition to hold an Officer to Account](#)”), your petition will need to contain a higher number of signatories or petitioners (see below);
- 2.2.4 If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that the Council can ensure that your petition is considered along with original matter.

2.3 **Who should you send a petition to?**

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

The Council have nominated a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to –

The Petitions Officer
Democratic Services
Ryedale District Council
Ryedale House
MALTON
North Yorkshire
YO17 7HH

The Petitions Officer will ensure that your petition is acknowledged to the petition organiser and entered on the authority’s petitions website and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above address or by telephone at 01653 600666.

2.4 Types of Petition – How will the Council respond to Petitions?

The response to a petition will depend on what a petition asks for and how many people have signed it, but in general terms 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
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition
- Referring the petition for consideration by the Council's Overview and Scrutiny Committee. The Overview and Scrutiny Committee is a Committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

There are five different types of petition, as set out below. How the Council deal with a petition depends on which type of petition you submit.

2.4.1 Ordinary Petitions

These are petitions which do not come within any of the following specific types and should contain at least 100 signatures or petitioners. Please note that;

- (i) petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards Initial Assessment Sub-Committee, rather than considered under this Petitions Procedure;
- (ii) petitions which relate to a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply rather than the Petitions Procedure. Further information on all these procedures and how you can express your views is available on the Council's website.

2.4.2 Consultation Petitions

These are petitions in response to an invitation from the authority for representations on a particular proposal or application, for example on planning or licensing applications. Consultation petitions which are received by the response date in the consultation invitation will be reported to the Officer or Committee which will be taking the decision on the application or proposal.

2.4.3 Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, the Council will report it to the next available meeting of the Council in accordance with the statutory requirements.

2.4.4 Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 2,675² signatories or petitioners (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area).

2.4.5 Petitions to Hold an Officer to Account

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 1,605 signatories or petitioners (this is reduced to 500 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The authority has determined that such petitions must relate to the Chief Executive, a Director or a Head of Service of the authority. Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of Organisational Development in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.³

2.5 The Petitions Website

2.5.1 The authority will maintain a petitions website. When a petition is received, within 5 working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

2.5.2 As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

2.5.3 Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for key-words to identify all petitions

² The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

³ Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

relating to a particular topic. All petitions are kept on the website for 2 years from the date of receipt.

2.6 The role of Ward Councillors

- 2.6.1 When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.
- 2.6.2 When the petition is reported to the person or body within the authority who can take a decision on the matter to which it relates, the relevant Ward Councillor will be invited to attend and to address the decision-taker for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

2.7 What happens when a petition is received?

- 2.7.1 Within 2 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.
- 2.7.2 In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.
- 2.7.3 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within 5 working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.
- 2.7.4 Whilst the Council is committed to dealing with petitions promptly, a petition will normally need to be received at least 10 working days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body.
- 2.7.5 At the same time as responding to the petition organiser, the Petitions Officer will notify party groups spokespersons and Ward Councillors of receipt of the petition.
- 2.7.6 Within 5 working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.
- 2.7.7 At each stage of the consideration of the petition, within 5 working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.

2.7.8 The process after this stage differs for the various types of petitions – see below.

2.8 What happens to a Consultation Petition?

2.8.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application or a proposed traffic regulation order.

2.8.2 The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees. Except where applications may be determined under the Scheme of Officer Delegation, planning applications are determined by the Planning Committee and Licensing applications are determined by the Licensing Committee or Licensing Sub-Committee. So where a petition has been received objecting to the grant of planning permission, the petition would be reported to the decision maker.

2.9 What happens to a Statutory Petition?

2.9.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, the Council will report it to the next available meeting of the Council in accordance with the statutory requirements.

2.10 What happens to Petitions for Debate?

2.10.1 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.

2.10.2 As set out below, the petition organiser will be invited to address the meeting for up to 3 minutes on the subject of the petition.

2.11 What happens to a Petition to Hold an Officer to Account?

2.11.1 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.

2.11.2 In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

2.11.3 At the meeting, the Chairman will invite the petition organiser to address the Committee for a maximum of 3 minutes on the issue, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chairman may invite the petition organiser to suggest questions for him/her to put to the officer.

2.12 What happens to an Ordinary Petition?

2.12.1 The Petitions Officer will arrange for each Ordinary petition to be reported to the next convenient meeting of the Council or of a Committee which has the power to take a decision on the matter.

2.13 At the meeting, when the matter to which the petition relates is considered:

2.13.1 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise. A maximum of 15 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will be referred to the relevant Committee for consideration or deferred until the next meeting.

2.13.2 Any petitions relevant to particular items of business, such as petitions relating to planning applications or licensing applications, will be taken together with that item of business, in the normal order of business.

2.13.3 The Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 3 minutes. The Chairman may then ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address him/her on the matter for up to 3 minutes (each). The Chairman will then invite a relevant officer(s) to advise the meeting, after which the matter will be open for debate among members of the decision-making body. The Committee will then make a decision. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council, or a Committee of the Council for determination. The Petition Organiser will receive written confirmation of this decision.

2.13.4 At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

2.14 Appeal to an Overview and Scrutiny Committee

2.14.1 If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition. It is helpful to everyone, and can improve the prospects for a review if the Petition Organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

2.14.2 Within 5 working days of receipt of intention to appeal, the Petitions Officer will determine which is the most appropriate Overview and Scrutiny Committee meeting date and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee for up to 3 minutes on why he considers that the authority's decision on the petition is inadequate.

2.14.3 At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Council's response was insufficient.

2.14.4 The Committee will endeavour to consider your 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 it has not dealt with your 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 and arranging for the matter to be considered at a meeting of the Full Council. Once the appeal has been considered the Petition Organiser will be informed of the results within 5 working days.

2.15 The role of the Petition Organiser

2.15.1 The petition organiser will receive acknowledgement of receipt of the petition within 2 working days of its receipt by the authority.

2.15.2 Where the petition is not accepted for consideration (see Paragraph 3.16 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

2.15.3 Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 5 working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

2.15.4 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

2.15.5 The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

2.15.6 The petition organiser may notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Committee against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee for up to 3 minutes as to why he/she considers that the authority's decision on the petition was inadequate.

2.16 Petitions which will not be reported

2.16.1 Duplicate Petitions - Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

2.16.2 Repeat Petitions - Where a petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

2.16.3 Rejected Petitions - Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the authority, or over which the authority has some influence.

Guide to Blogging and Social Networking

1. Blogging and social networking are effective methods for Councillors to interact with constituents and support local democracy. Used effectively, they can engage those who would not normally have access to local Councillors and politics.
2. Standards for England supports the use of such media and encourages Councillors to get online. You should think about what you say and how you say it, in just the same way as you must when making statements in person or in writing.
3. You will also need to think about whether you are seen to be, or give the impression that you are acting in your official capacity as a councillor.
4. The Council has facilitated a specific site in which Councillors can write blogs. Individual Councillors are permitted to write their own official blogs as Ryedale District Councillors, however, and under this circumstance, they will only be permitted to act in their official capacity, and not in their private capacity. Councillors must also bear in mind that if they do have private blogs and refer to council business on them, they will be viewed as acting in their official capacity.
5. To make sure you comply with the Code of Conduct (the Code) and to ensure your use of online media is well received, you are requested to observe the following guidelines:

Do

- set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- be aware that the higher your profile as a councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network
- ensure you use council facilities appropriately; and be aware that any posts you make will be viewed as made in your official capacity
- be aware that by publishing information that you could not have accessed without your position as a councillor, you will be seen as acting in your official capacity
- make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine political expression is less likely to be viewed as disrespect.

Don't

- blog in haste.
- post comments that you would not be prepared to make in writing or face to face

When the Code may apply

6. Bear in mind the Code when you blog or use social networking sites. You should pay particular attention to the following paragraphs of the Code:

- Disrespect
 - Bullying
 - Disclosure of confidential information
 - Disrepute
 - Misuse of authority resources
7. However, it is difficult to give definitive advice on the application of the Code as each blog and social networking page is different. The content of a blog or other social networking tool and the circumstances surrounding its creation will determine whether or not it might be covered by the Code.
8. Ethical use of online social media is not limited to what is covered in the Code. Councillors are encouraged to respect the **Ten General Principles of Public Life**, which can be found in the Constitution as the preamble to the Members' Code of Conduct. While your conduct may not be a breach of the Code it may still be viewed as less than exemplary and attract adverse publicity for your office and authority.

Derogatory comments

9. On occasion, Councillors might find themselves the subject of offensive or defamatory remarks on other people's blogs or networking sites. The following approach is advised in such circumstances, and applies equally to any form of publication:
- Pursue a policy of indifference to such remarks, and do not be tempted into retaliation because you may risk breaching the Code. You could ask the person making the remarks to remove them from the site.
 - If the person making the comments is a local authority, town or parish councillor, discuss the situation with the Monitoring Officer. It might be the case that the person has breached the Code by making the remarks, and it could be appropriate to make a complaint to the Standards Committee.
 - Aside from any possible breaches of the Code of Conduct, the matter is usually deemed private between yourself and the individual. The Council cannot provide legal assistance for pursuit of a claim through the civil courts, but you may decide that you wish to take independent legal advice.
 - If a person had a blog or a social networking site, and a second person places comments about you on that site, you could ask the person to remove the second person's comments from their site.

Part 6

Members' Allowances Scheme

RYEDALE DISTRICT COUNCIL
**LOCAL GOVERNMENT AND HOUSING ACT 1989
LOCAL GOVERNMENT ACT 2000
THE LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND)
REGULATIONS 2003 REGULATION 16**

MEMBERS' ALLOWANCES SCHEME

1.0 INTRODUCTION:

- 1.1 This Scheme has been adopted for the purposes of the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations").
- 1.2 The Scheme shall continue in force until amended or revoked by the Council.
- 1.3 The Scheme will apply to all Members of the Council.
- 1.4 All Allowances shall be payable for the period from 1 April 2008.
- 1.5 A Member may by notice in writing to the Chief Executive elect to forego his/her entitlement or any part of his/her entitlement to Allowances.

2.0 BASIC ALLOWANCES: (Regulation 4)

- 2.1 A Basic Allowance as set out in the Annex to this Scheme as amended from time to time in accordance with Section 7 of the Scheme shall be payable to each elected Member of the Council. The Allowance shall be the same for each elected Member.
- 2.2 Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year his/her entitlement shall be to payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office as Member subsists bears to the number of days in that year.
- 2.3 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that part, the part of the Basic Allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee

3.0 SPECIAL RESPONSIBILITY ALLOWANCE: (Regulation 5)

- 3.1 The Special Responsibility Allowances set out in the Annex to this Scheme as amended from time to time in accordance with Section 7 of the Scheme shall be payable to the following elected Members in addition to the Basic Allowance:-

Special Responsibility Allowance
Chairman of Council
Vice Chairman of Council

Leader of the Council
Deputy Leader of the Council
Chairman, Overview and Scrutiny Committee
Vice Chairman, Overview and Scrutiny Committee
Chairman, Policy and Resources Committee
Vice-Chairman, Policy and Resources Committee
Chairman, Planning Committee
Vice Chairman, Planning Committee
Group Leaders (4)

3.2 Where a Member does not have throughout the whole of the year any special responsibilities as entitle him/her to a Special Responsibility Allowance, his/her entitlement shall be to payment of such part of the Special Responsibility Allowance as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that year.

3.3 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that part, the part of the Special Responsibility Allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Standards Committee.

4.0 DEPENDANTS' CARERS' ALLOWANCE; (Regulation 7)

4.1 The Dependants' Carers' Allowance set out in the Annex to this Scheme as amended from time to time by Section 7 of the Scheme shall be payable to all elected Members in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred in respect of:-

- (a) the attendance at a meeting of the Council or of any Committee, or Sub-Committee or Working Party of the Council, or of any body to which the Council makes appointments or nominations, or of any Committee or Sub-Committee of such a body;
- (b) the attendance at any other meeting, the holding of which is authorised by the Council, or a Committee or Sub-Committee of the Council or a Joint Committee of the Council and one or more Local Authorities within the meaning of Section 270(1) of the Local Government Act 1972, or a Sub-Committee of such a Joint Committee, provided that:-
 - (i) where the Council is divided into two or more political groups it is a meeting to which Members of at least two such groups have been invited; or
 - (ii) if the Council is not so divided, it is a meeting to which at least two Members of the Council have been invited;
- (c) the attendance at a meeting of any association of Authorities of which the Council is a member;

- (d) the performance of any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises;
- (e) attendance at:-
 - (i) meetings of Parish Councils within the Members Ward;
 - (ii) meetings of a public nature where attendance is of value in carrying out the Members' community role;
 - (iii) meetings with constituents;

where the meeting is within the Members' Ward, undertaken as part of the Members' duties and the expenses are not reimbursed from some other source;
- (f) attendance at any meeting arranged by any other body on which the Member represents the Council where that other body is not reimbursing the Member.

4.2 For the purposes of this Section, "Authority" means an Authority of any description specified in sub-paragraphs (a) to (c) of Regulation 3(1) of the Regulations.

5.0 TRAVELLING, SUBSISTENCE AND ACCOMMODATION ALLOWANCE:

5.1 The Travelling, Subsistence and Accommodation Allowance set out in the Annex of this Scheme as amended from time to time by Section 7 of the Scheme shall be payable to all Members in respect of:-

Statutory approved duties (regulation 8(1)(a)-(f))

- (a) Attendance at a meeting of the Council or of any Committee or Sub-Committee of the Council or any other body to which the Council makes appointments or nominations or of any committee or sub-committee of such a body .
- (b) Attendance at any other meeting the holding of which is authorised by the Council or a Committee or Sub-Committee of the Council or a Joint Committee of the Council and one or more other Authorities or a Sub-Committee of such a Joint Committee, provided that where the Council is divided into two or more political groups, it is a meeting to which the Members of at least two such groups have been invited.
- (a) Attendance at a meeting of any association of authorities of which the Council is a member.
- (b) Duties in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened.
- (c) Duties in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.

Approved duties - outside bodies (regulation 8(1)(h))

- (a) Attendance at meetings of Outside Bodies to which a Member has been appointed to serve as the Council's representative (except where such allowances are payable by the Outside Body);
- (b) Attendance at meetings of the Local Government Association at National, Regional or County level, but not when held immediately before or after the Annual Conference;
- (c) Attendance at Provincial Council meetings;

Other approved duties (regulation 8(1)(h))

- (a) Attendance at an Away Day for Members;
- (b) Attendance at emergency planning courses at the Home Office Emergency Planning College.
- (c) Duties in connection with emergency planning including training and attendance at rest centres
- (d) Attendance at approved conferences.
- (e) Attendance at approved seminars and training courses.
- (f) Attendance at briefing meetings.
- (g) Attendance at the offices to receive petitions.
- (h) Attendance at meetings of advisory groups and working groups and sub-committees appointed by the Council Committees and Overview and Scrutiny Committees.
- (i) Attendance at liaison meetings with North Yorkshire County Council.
- (j) Consultation with constituents.
- (k) Attendance at Interview Panels and formal meetings to shortlist candidates for interviews;
- (l) The giving of official evidence on behalf of the Council at judicial proceedings and planning inquiries;
- (m) Attendance of Chairman and Vice-Chairman of Planning Committee and appropriate Ward Councillor(s) at Local Planning Inquiries and Informal Hearings, either as formal witnesses or observers;
- (n) A visit to a Government Department (previously authorised by a Committee);
- (o) Deputising for the Chairman of the Council by any Councillor in the absence of both the Chairman and Vice-Chairman of the Council;

- (p) Attendance at the Council Offices for discussion by Chairmen and Vice-Chairmen (Council and Committees) with Chief Officers or their nominated representatives on the agenda for a meeting.
 - (q) Attendance at any meeting arranged by any other body on which the Member represents the Council where that other body is not reimbursing the Member.
 - (r) Attendance by Members of the Overview and Scrutiny Committee at Policy Committee meetings.
 - (s) Attendance at Committee meetings at the invitation of the Chairman of Committee.
- 5.2 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that part, any Travelling, Subsistence and Accommodation Allowance payable to him/her in respect of the responsibilities or duties from which he/she is suspended or partially suspended may be withheld by the Corporate Governance Standards Committee.
- 5.3 For the purposes of this Section a Member of a Committee or Sub-Committee of the Council is to be treated as a Member of the Council.

6.0 CO-OPTEEES' ALLOWANCE: (Regulation 9)

- 6.1 A Co-optees' Allowance as set out in the Annex to this Scheme as amended from time to time in accordance with Section 7 of the Scheme shall be payable to those non-elected Members of a Council Committee or Sub-Committee.
- 6.2 Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year his/her entitlement shall be to payment of such part of the Co-optees' Allowance as bears to the whole the same proportion as the number of days during which his term of office as Member subsists bears to the number of days in that year.
- 6.3 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a Member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that part, the part of the Co-optees' Allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the Corporate Governance Standards Committee.

7.0 INDEXATION OF ALLOWANCES: (Regulation 10(5))

- 7.1 The levels of the basic allowance, special responsibility allowance, dependants' carers' allowance and co-optees' allowance specified in this scheme shall be index linked annually by reference to the annual percentage award under the National Joint Council for Local Government Services for Spinal Column 34;
- 7.2 All Travelling, Subsistence and Accommodation Allowances shall be adjusted from time to time to ensure that they are the same as the equivalent allowance for officers of the Council.

8.0 CLAIMS AND PAYMENTS:

- 8.1 Claims for payment of Allowances shall be made in writing within one month of the date on which entitlement to the Allowances arises.
- 8.2 Payment for Basic, Special Responsibility and Co-optees' Allowances shall be made in equal monthly instalments on the 23rd day of the relevant month.
- 8.3 Dependants' Carers' Allowance and Travelling, Subsistence and Accommodation Allowance will be paid within two months of receipt of a valid claim.
- 8.4 Where payment of any Allowance has already been made in respect of any period during which the Member concerned is:-
- (a) suspended or partially suspended from his responsibilities or duties as a Member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
 - (b) ceases to be a Member of the Council; or
 - (c) is in any other way not entitled to receive the Allowance in respect of that period such part of the Allowance as relates to any such period shall be repaid to the Council.
- 8.5 Where a Member is also a member of another Authority that Member shall not receive Allowances under this Scheme if he/she is receiving an Allowance from the other Authority in respect of the same duties.

9.0 ACCESS TO THE SCHEME AND RECORDS: (Regulation 15)

A copy of the scheme of Members' Allowances and the record of payments made under it may be inspected during normal office hours at Ryedale District Council Offices, Ryedale House, Malton, North Yorkshire, YO17 7HH Telephone enquires can be made to 01653 600666 Ext 267.

Allowances	Level for 2014/15 Before Indexation
Basic Allowance	£3,551.64
Leader	£3587.04
Deputy Leader	£530.45
Chairman, Overview & Scrutiny Committee	£2869.63
Vice Chairman, Overview & Scrutiny Committee	£530.45
Chairman, Policy & Resources Committee	£2869.63
Vice-Chairman, Policy & Resources Committee	£530.45
Chairman, Planning Committee	£2869.63
Vice Chairman, Planning Committee	£530.45
Group Leaders (4)	£358.80

All Members will receive the Basic Allowance. Those with special responsibilities will receive the Allowances indicated in addition to the Basic Allowance.

SUBSISTENCE RATES

	<u>£</u>
Breakfast	6.06
Lunch	8.37
Tea (absence after 6.30pm)	3.29
Dinner (absence after 8.30pm)	10.35

Notes: Tea or Dinner may be claimed but not both
The Allowance is irrespective of the actual cost of the meal.

ACCOMMODATION RATES

	<u>£</u>
Other	Up to £72
Major Cities	Up to £93
London	Up to £124
Conferences (National Conferences attended by Members and Officers)	Actual Costs

Note: Where not included in the accommodation charge, the cost of all meals will be reimbursed up to a maximum of double the subsistence rate per meal upon production of receipts. In the absence of receipts, Subsistence Rates will apply.

TRAVEL RATES

Travel by Member's own private motor vehicle

That the following Inland Revenue approved mileage payments rates (AMAP's) be payable:

Car mileage rate per mile:	First 10,000 miles	Each mile over 10,000
Cars and vans	40p	25p
Motorcycles	24p	24p
Bicycles	20p	20p

Part 7

Management Structure

PLEASE FOLLOW THE LINK FOR THE [COUNCIL STRUCTURE](#)