

### **Summary and Explanation**

- 1 This Constitution explains the powers and duties that Kettering Borough Council has and how it exercises them. It also details how the Council works, how decisions are made and the procedures that are followed to make sure that its decisions are efficient, open and accountable to local people.

### **Why have a Constitution?**

- 2 The Constitution:
  - enables the Council to provide clear leadership to the community in partnership with groups or individuals, businesses and other organisations;
  - supports the active involvement of groups or individuals in the process of council decision-making;
  - helps councillors represent their constituents effectively;
  - ensures that the Council acts with integrity;
  - enables decisions to be taken openly, quickly and well;
  - creates a powerful and effective means of holding decision-makers to public account;
  - ensures that no one will review or check a decision in which they were directly involved;
  - ensures that those responsible for decision making are clearly identifiable to local people and groups and that the reasons for decisions are given;
  - provides a framework for improving the delivery of services to the community;
  - clearly defines the respective roles of councillors and staff; and
  - ensures that the Council values the diversity of its people.

### **What is in the Constitution?**

- 3 The Constitution includes rules about how all Council meetings are run and what happens at them and how and who takes decisions. It also details rules about how members and staff should behave.

- 4 The Constitution also includes financial rules, including rules on how the Council procures goods and services.

### **How the Council works?**

#### **Councillors and Elections**

- 5 There are 36 councillors representing electors in 17 areas or wards. The membership of the Council and the wards they represent are detailed on the Council's web-site and details are available from the Council's customer service centres located around the Borough.
- 6 All councillors are elected for 4 years. The regular election of Councillors is held on the first Thursday in May every four years. The next elections are in May 20195.
- 7 The terms of office of Councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election. If it is more than 6 months until the next regular election, a by-election is held if a Councillor resigns, becomes disqualified or dies and two electors from their ward request an election. Councillors can be removed from office if they don't attend any meetings for 6 months.

#### **Responsibilities of Councillors**

- 8 The overriding duty of Councillors is to the whole community of the Borough, but they have a special duty to their constituents, including those who did not vote for them. Councillors have a responsibility to uphold the Constitution and always to act in accordance with it. Above all Councillors must put the interests of local people first.

#### **Allowances**

- 9 Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme. (Part 8 of this Constitution).

#### **How decisions are made (Council, the Executive, other Committees and the role of officers)**

#### **Council Meetings**

- 10 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. Local people have the

right to attend meetings of the Council and ask questions about Council business and other issues of importance to the area. (For more information look at the Council Procedure Rules in Part 4 of the Constitution).

### **The Executive**

- 11 The Executive is the committee of the Council that is responsible for making key policy decisions, within the framework and the budget set by the full Council. The Executive is made up of the Leader and Deputy Leader of the Council, who are selected by the Council, and up to 8 other Councillors appointed by the Leader. The Executive publishes a work programme of the decisions it will be taking so that other councillors and local people know what will be decided and when. The work programme also explains who to contact so that your views can be taken into account before the decision is taken. The Executive has to ask full Council to approve decisions if they are outside the budget or policy framework it has set. (For more information look at the Executive Procedure Rules in Part 4 of the Constitution).

### **Other decision-making committees**

- 12 There are 2 main types of other decisions that the Council has to make. There are regulatory decisions whereby committees and their sub-committees take decisions on applications by people or organisations where the Council has to give permission or a licence or must otherwise give its approval. They also take decisions on enforcement where people or organisations have done things without permission, or have not done things they should have done.
- 13 The Regulatory Committees and sub-committees have the following specific functions:
- Town and country planning and development control. For example, determining applications for planning permission, consent to display advertisements, listed building consents and conservation area consents

- Licensing and registration. For example, hackney carriage and private hire drivers licences and public entertainment licences
- 14 There are other committees established by the Council, for example the Joint Planning Committee, the Planning Policy Committee and the Employment Committee have specific functions that either cannot be dealt with by the Executive or this Council has chosen to deal with by committee rather than by the Council's Executive
- 15 There are special rules about how these committees conduct their proceedings included separately in this Constitution but in summary they:-

Employment Committee	takes decisions for the Council about staff employment policies.
Licensing Committee	deals with all licensing matters including alcohol and entertainment, gambling and taxi licensing.
North Northants Joint Planning Committee	working with members from Northamptonshire County Council, Corby Borough Council, East Northants Borough Council and the Borough Council of Wellingborough on important strategic planning policy issues to make sure that future growth is planned on a more regional basis
Planning Committee	takes decisions about individual planning applications and the enforcement of planning law, (the majority of planning applications are determined by officers working for the Council). The Committee meets every 4 weeks.
Planning Policy Committee	takes decisions about the strategic planning for the Kettering area.

- 16 Meetings of the Council's Council, Executive and all other committees are all open to the public except where personal or confidential matters are being discussed.

### **The role of Officers**

- 17 A lot of the decisions required in the running of the Council are taken by Council staff. What the members in Council or committee decides and what officers decide is detailed in Part 3 of this Constitution.

### **How decisions are checked (Scrutiny Committees)**

- 18 There are 2 scrutiny committees that support the work of the Executive, decision-making committees and the Council as a whole. They allow local people to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations that advise the Executive and the Council as a whole on its policies, priorities, budget and service delivery. Scrutiny committees also monitor the decisions of the Executive. In certain circumstances they can 'call-in' a decision that has been made but not yet implemented by the Executive. This enables them to consider whether the decision is appropriate. They may recommend that the Executive or full Council reconsider the decision. They may also be consulted by the Executive on future decisions and policy development. These committees also monitor performance to ensure the Council is achieving the targets it has set and is continuously improving. (For more information look at the Scrutiny Procedure Rules in Part 4 of the Constitution).

### **Conduct**

- 19 Councillors and officers each have codes of conduct governing how they will behave. These are the Members' Code of Conduct, the Officers' Code of Conduct and the Protocol on Member/Officer Relations. (Part 5 of this Constitution). There is a Standards Advisory Committee that has a majority of independent (non-councillor members) that makes sure that Councillors receive training and advice on the Code of Conduct and which has an important role in judging their behaviour should councillors ever breach the Code of Conduct. (For more information look at the Standards Advisory Committee Procedure Rules in Part 4 of the Constitution).

### Public Involvement

- 20 Local people have the right to know what decisions are to be taken and who will take them, to attend meetings and to tell the Executive and committees what they think before decisions are taken or to know why they can't attend and speak on items that are discussed in private. For help in making your views known you can contact your local councillor either directly or through the Council's Customer Services Centre.

### Partnership Working

- 21 The Council works with the Northamptonshire County Council, other Boroughs and Districts in Northamptonshire, Town and Parish Councils and other organisations to jointly promote the economic, environmental and social well-being of the Borough. It also supports other groups for consultation and partnership work on particular issues, or in particular areas.

The Council also works with other Councils and public bodies in the county to promote the interests of Northamptonshire as a whole, in the region to promote the interests of the East Midlands, and nationally to promote local democracy

<p><b>Geographic forums</b></p>	<p>The Council has area forums to improve service delivery in the context of best value and more efficient, transparent and accountable decision making</p> <p>The Council supports Forums for the A6 Towns (Burton Latimer, Desborough, Rothwell and Barton Seagrave), the town of Kettering and the Rural Area.</p>
<p><b>Local Strategic Partnership and the Local Area Agreement</b></p>	<p>The Council also works with the Northamptonshire County Council and other public, private and voluntary organisations that have an interest in promoting the economic, social and environmental well-being of the Borough.</p>

<b>Tenant's Forum</b>	The Council has a Tenants' Forum that operates to help improve service delivery and the well-being of the Borough. The Council (and the Executive in relation to executive functions) will establish other consultation and partnership forums if it considers that these will help improve Council services.
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(For more information look at the Partnership and Consultation Forum Rules in Part 2 of the Constitution).

- 22 Details of any joint arrangements including any delegated to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **The Council's Staff**

- 23 The Council has people working for it to give advice, implement decisions and manage the day-to-day delivery of its services. Some have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between staff and members of the council. Staff are bound by a code of conduct to ensure high standards in the way they undertake their duties.

### **Local People's Rights**

- 24 Local people have rights in their dealings with the Council. These include to:-
- vote at local elections if they are registered;
  - contact their local councillor about any matters of concern to them;
  - obtain a copy of this Constitution, for which a fee may be payable;
  - attend meetings of the Council, the Executive and committees except where, for example, personal or confidential matters are being discussed;
  - petition to request a referendum on a Mayoral form of Executive;
  - speak at Council, Executive and Committee meetings, participate and contribute to investigations by the scrutiny committees;
  - find out what decisions are to be discussed and when;

- know which councillors deal with what;
  - see the paperwork on decisions, unless they contain private information. (where decisions are made in private there is a right to know why);
  - know what decisions have been made;
  - comment or complain to the Council about anything it has done, or it has failed to do;
  - complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
  - complain to the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
  - inspect the Council's accounts and object to them or make their views known to the external auditor
  - obtain documents from the Council, subject to certain exemptions and a public interest test.
- 25 Where members of the public use specific council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution, but details are available from the Council.
- 26 The Council welcomes participation in its work by any interested individual or group. For further information on your rights or any other part of the constitution, please visit the Council's customer services centre or telephone (01536) 534377 or email [customerservices@kettering.gov.uk](mailto:customerservices@kettering.gov.uk).



## Local People and the Council

### 3.01 Local people's rights

Local people have the following rights. Their rights to information and to participation are explained in more detail in the Access to Information Rules in Part 4 of this Constitution and the Protocol on Open Government in Part 5:

- (a) **Voting and petitions.** Local people on the electoral roll for the Borough have the right to vote in elections to the Council and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Local people have the right to:
  - (i) attend meetings of the Council, the Executive and committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out what decisions will be taken, who will take the decisions and when;
  - (iii) see paperwork, and any records of decisions made by the Council;
  - (iv) inspect the Council's accounts and make their views known to the external auditor;
  - (v) inspect all the books and vouchers that support those accounts at certain time of the year advertised by the auditor;
  - (vi) obtain information held by the authority and about its activities, except where it is confidential or exempt information; and
  - (vii) be consulted before decisions are taken that the Council knows will particularly affect them.
- (c) **Participation.** Local people have the right to speak at Council, Executive and Committee meetings and contribute to investigations by scrutiny committees. Local people have the right to contact decision makers to make their views known before decisions are taken.
- (d) **Comments and Complaints.** Local people have the right to comment and complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Council's Monitoring Officer Standards Board for England about a breach of the Councillor's Code of Conduct;
  - (iv) the External District Auditor if they object to the Council's accounts.

### 3.02 Local people's responsibilities

- To share with the Council the responsibility to improve and develop the Borough.
- To make sure that they are registered to vote if eligible, and to exercise their right to vote.
- To respond to consultation exercises undertaken by the Council to help it make the right decisions based on the best information available.
- To tell the Council when it fails to meet its performance or ethical standards.
- People must not be violent, abusive or threatening to councillors or staff and must not wilfully harm things owned by the council, councillors or staff.

## Staff

### 12.01 Management structure

- (a) **General.** The Council may employ such staff as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council employs persons for the following posts, who are designated chief officers:

Managing Director (and Head of Paid Service)

Two Executive Directors

- (c) **Head of Paid Service, Monitoring Officer and Responsible Finance ~~chief financial~~ Officer**

The Council has designated the following posts as shown:

Managing Director

Head of Paid Service

Head of Democratic and Legal Services

Monitoring Officer

Head of Resources

Responsible Finance

Officer / "s151 officer"

All these officers together have a responsibility for the good corporate governance of the Council and the functions described in Article 12.02 – 12.04 below.

- (d) **Structure.** The Head of Paid Service determines and publishes a description of the overall staff structure of the Council showing the management structure and deployment of staff. This is set out at Part 9 of this Constitution.

### 12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service reports to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (b) **Overall Corporate Management.** The Head of Paid Service has overall corporate management responsibility.
- (c) **Providing advice.** The Head of Paid Service provides advice to all parties in the decision making process (full Council, the Executive, scrutiny and other committees, individual members and staff).

- (d) **Representing the Council.** The Head of Paid Service represents the Council on partnership and external bodies (as required by statute or the Council).
- (e) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer ~~or the Responsible Finance Officer.~~

## 12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will ensure that the Constitution is regularly monitored and reviewed (and that the Executive meets its requirement under Article 15.01) and that an up to date version of the Constitution is maintained and that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring the lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Responsible Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to executive functions 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 Standards Advisory Committee.** The Monitoring Officer contributes to the promotion and maintenance of high standards of conduct through provision of support to the Standards Advisory Committee.
- (d) **Proper officer for access to information.** The Monitoring Officer ensures that decisions, together with the reasons for those decisions and relevant reports and background papers are made publicly available as soon as possible.
- (e) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (f) **Providing advice.** The Monitoring Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all councillors and staff. The Monitoring

Officer ensures that individuals under investigation are informed of their rights.

- (g) **Supporting corporate management.** The Monitoring Officer supports the corporate management of the authority, in particular giving professional advice to any member of staff at any time on any of the functions of the post.
- (h) **Whistleblowing.** The Monitoring Officer will receive and investigate any allegations ~~by a member of staff~~ of any unlawfulness or unfairness by the Council or its staff.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Responsible Finance Officer or the Head of Paid Service.

#### 12.04 Functions of the Responsible Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Responsible Finance Officer will report to the full Council, or to the Executive in relation to executive functions, 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 Responsible Finance Officer has responsibility for the proper administration of the financial affairs of the Council.
- (c) **Supporting corporate management.** The Responsible Finance Officer will support the corporate management of the Council, in particular by giving professional financial advice to any member of staff at any time.
- (d) **Providing advice.** The Responsible Finance Officer provides 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 staff in their respective roles.
- (e) **Give financial information.** The Responsible Finance Officer provides financial information to the media, local people and the community.

#### 12.05 Duty to provide sufficient resources to the Monitoring Officer and Responsible Finance Officer

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

**12.06 Conduct**

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

**12.07 Employment**

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

## Review and Revision of the Constitution

### 15.01 Duty to monitor and review the constitution

The Executive will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Such reviews will be conducted in accordance with the work programme. The Standards Advisory Committee, the Research & Development Committee or any other committee may review any part of the Constitution falling within their terms of reference at any time and make recommendations to the Executive. The Executive must consider these recommendations and refer them to the full Council (with their observations on the recommendations if they consider it appropriate). Council staff will, and any other person or body may, propose amendments that they consider will better reflect the aims and principles of the Constitution.

### 15.02 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Executive as part of the work programme of decisions, and any report by a Research and Development Committee. The Head of Democratic & Legal Services is authorised to make minor administrative changes to the Constitution, to reflect, for example, changes in management structure, changes in legislation, or other changes that do not have a significant impact
- (b) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
- (c) **Change from a Mayoral form of executive to another arrangement, or vice versa.** The Council will conduct a referendum on any such proposals following receipt of a valid petition by local people to have a mayoral form of executive or should it decide itself to propose change to, or from, such an arrangement.

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### Introduction

- 1.1 This part of the Constitution sets out who are the responsible members or officers for the different decisions that the Council makes.
- 1.2 It also provides a short summary of the decision-makers and the general principles of this scheme.

### Decisions

- 1.3 The decisions that we as a Council make can be split into 7 categories. The separation of these functions between Council, the Executive, committees and officers are listed under these headings

1	General Provisions
2	Budget and Accounts
3	Policy Formulation and Implementation
4	Constitutional Affairs
5	Planning and Development Control
6	Licensing and Registration
7	Employment Matters

### The Decision-Makers

- 1.4 Full details of the membership of the Council, the Executive and committees are given in Part 6 of this Constitution. However, for ease of reference a brief summary of the names and make up of the members and officers with decision-making responsibilities is set out below:-

#### Full Council

36 councillors elected from the 17 wards of the Borough.

#### The Executive

The Leader of the Council and up to 9 other members appointed by the Leader.

#### Planning Policy Committee

9 members of the authority (at least one of which may be a member of the Executive).



### **Joint Planning Committee**

A joint committee comprising of Northamptonshire County Council, Kettering Borough Council, Corby Borough Council, East Northamptonshire Council and the Borough Council of Wellingborough made up of 15 members, 3 from each authority, with responsibility for specific strategic planning issues in north Northamptonshire.

### **Licensing Committee/ Licensing Sub-Committee**

The Licensing Committee is made up of 10 members.

Any Licensing Sub-Committee will be made up of 3 members, drawn from the Licensing Committee

The Chair and Deputy Chair of the Licensing Committee and regularly nominated Chairs of Licensing Sub-Committees will not serve on the Planning Committee.

No member will sit on a Licensing Sub Committee considering applications from people or properties in the ward that they represent.

All members (and substitutes) must receive appropriate training before they sit on the Licensing Committee or any Licensing Sub-Committee

### **Planning Committee**

**9 members**

Most planning applications are determined by officers. Other planning applications are determined by the Planning that decides on those applications not determined by officers. This committee meets on a 4 week cycle.

All members (and substitutes) must receive appropriate training before they sit on this committee

### **Appeals Committee**

Each Appeals Committee is made up of 3 members who have not previously been involved in the matter before them for determination.

All members must receive appropriate training before they sit on this committee

### **Appointments Committee**

Each Appointments Committee is made up of 3 members (at least one of which is a member of the Executive) who have not previously been involved in the matter before them for determination.

All members must receive appropriate training before they sit on this committee

### **Employment Committee**

6 members (at least one of which may be member of the Executive).

All members must receive appropriate training before they sit on this committee

### **Officers**

These decision-making bodies have delegated some of their decision-making powers to officers. The limit (if any) of the officer delegation is also explained.

Delegations are general delegations to all officers or specific delegations to individual officers.

### **General Principles**

1.5 To ensure that the decisions that we take are efficient, open and accountable we believe that:-

- Responsibility should be delegated to the lowest level consistent with the aims of this Constitution;
- Decisions should be taken once;
- It should be clear who is responsible for a decision;
- Key Decisions taken by officers will, where relevant be taken after due consultation with the relevant portfolio holder
- Any decision maker may, after due consultation, choose not to exercise their powers where to do so might compromise the aims of the Constitution or individual rights;
- All decision-making by a decision-maker must be consistent with the Budget and Policy Framework; and

- All decisions should be informed by gathering appropriate facts, undertaking analysis, seeking professional advice (including from the Head of Democratic & Legal Services and the S151 Officer Head of Finance as required by law) and with due regard to the opinions of local people through consultation.

### General Provisions

#### Council

All matters which, by law must be reserved to Council are reserved to Council

#### Officers- General

##### Urgent Decisions

A Chief Officer may take a decision that is not a key decision but that would normally be taken by the Executive when it is not practicable to hold a meeting of the Executive to consider the matter after consultation with the Leader of the Council and the Chair and Deputy Chair of the relevant scrutiny committee. If a member who is consulted formally objects to the decision it shall not be implemented and a special meeting of the Executive called.

##### General Provisions

Save as expressly reserved to Council, the Executive or other decision-making committee Chief Officers and Service Heads may take any action in accordance with the Council's Budget and Policy Framework to Implement decisions of the Council, the Executive or other decision-making committee in so far as these are in compliance with the Budget and Policy Framework or the general requirements of service delivery in their respective areas of responsibility. Without limitation this shall include the power to enter into contractual relations for goods and services, enter into service level agreements, to appoint/ dismiss and otherwise manage staff, to set the level of fees and charges, to manage

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publicity and consultation, to manage the land and property that they are responsible for, to seek external funding, to award grants, respond to consultation papers, to exercise statutory powers that relate to their areas of responsibility, to authorise staff to take decisions on their behalf, and take whatever action is otherwise necessary to ensure the economic, efficient and effective delivery of their service.

**Budget and Accounts**

**Council**

	To approve and adopt the Budget (See Article 4)
	Subject to the urgency procedure contained in the Access to Information Rules in Part 4 of this Constitution, to make decisions about any matter which is an executive function and is covered by the budget, where the decision would be contrary to, or not wholly in accordance with, the budget
	To set the Council tax and to set borrowing limits
	Adopt and amend a Members' Allowances Scheme under Article 2.05
	Duty to approve authority's statement of accounts income and expenditure and balance sheet or record of receipts

**Executive**

	To set the level of fees and charges for council housing and car parking
	To consider and recommend the Council's annual revenue and capital expenditure plans, including target income from fees and charges and to recommend the level of council tax
	To consider and recommend to Council for approval (or amendment) <del>the</del> the Budget

Head of ~~Resources~~**Finance** / Responsible Finance Officer (section 151 Local Government Act 1972 and section 114 of the Local Government Act 1988)

	To determine the Council Tax Base
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**Policy Formulation and Implementation/ Service Delivery**

**Council**

	To approve and adopt the Policy framework (See Article 4)
	Subject to the urgency procedure contained in the Access to Information Rules in Part 4 of this Constitution, to make decisions about any matter which is an executive function and is covered by the policy framework, where the decision would be contrary to, or not wholly in accordance with, the policy framework
	The authorisation of the Executive to make an application for a Housing Land Transfer (See article 4)

**Executive**

	To consider and recommend to Council for approval (or alteration or amendment) the plans comprising the Policy Framework (with the exception of Local Development documentation in which case the Executive shall act as a consultee to the Planning Committee and any Joint Committee established by order of the Secretary of State)
	To implement the approved policy framework in respect of council functions and services not otherwise the responsibility of full Council or any other committee except where the function involves the determination of an application, the direct regulation of any person or the enforcement of any regulatory function.
	To review the Council's Mission Statement, priorities and commitments and recommend changes to the Council
	To approve (or amend) changes to statutory plans not forming the Policy Framework
	The overall service delivery of all the functions of the Council split between the individual portfolios (as they are organised from time to time) of Executive members insofar as these are not expressly excluded from being an Executive function either

	by law or by a decision of this Council
	Take appropriate lawful action that furthers the economic, social or environmental well-being of the area.

### Chief Officers

	Working with and advising the Executive and the Council on the strategic management of the Council
	Day to day management of the paid service
	Professional and administrative functions in relation to the functions of the Council exercisable by Service Heads except as may be specifically delegated to individual officers by law
	To assume all the powers of the Council necessary to respond to a declared civil emergency for the duration of the immediate response phase.

### Head of Democratic & Legal Services/ Monitoring Officer ~~and Corporate Property Officer~~

	Professional and administrative functions in relation to the provision of legal support, <del>estate management, facilities management (from 2005)</del> , member support, committee and civic administration
	<del>Specific Limitations Estate Management - Where the total consideration does not exceed £200,000 to conclude agreements in respect of the disposal of land and property that is designated as surplus to requirements in accordance with the provisions of s123 of the Local Government Act 1972</del>

### Head of ~~Finance Resources & Corporate Development~~/ Responsible Finance Officer (section 151 Local Government Act 1972 and section 114 of the Local Government Act 1988)

	Professional and administrative functions of treasury management, financial management, insurance <del>and tax and property management</del> . General performance management functions
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	<p><u>Specific Limitations</u></p> <p><u>Property Management - Where the total consideration does not exceed £200,000 to conclude agreements in respect of the disposal of land and property that is designated as surplus to requirements in accordance with the provisions of s123 of the Local Government Act 1972</u></p>
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### Head of Housing

	<p><u>Professional and administrative functions in respect of council housing, including tenancy management, asset management, stock investment, repairs and maintenance, housing allocations, housing needs and homelessness, repairs, anti-social behaviour, housing strategy and the broader housing market.</u></p> <p><del>Professional and administrative functions in respect of council housing, housing allocations, housing needs and homelessness, repairs, anti-social behaviour and the broader housing market.</del></p>
	<p>With the Head of Democratic &amp; Legal Services to determine reviews of delegated decisions on allocations and homelessness</p>

### Head of Corporate & Cultural ~~IT & Customer~~ Services

	<p>Professional and administrative functions in respect of <del>customer services</del> and information and communication technology, <u>cultural services including the art gallery and museums, facilities management</u></p>
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### Head of Development ~~Control~~ Services

	<p>Professional and administrative functions in respect of building control, dangerous trees (not on the highway), street naming and numbering, and public sewer records <u>and economic regeneration.</u></p>
	<p>Specific Limitations – Street naming and numbering in consultation with Ward Councillors, Town or Parish Council the</p>

	Post Office and the Fire Authority
<b>Head of <del>Environmental Health</del>Public Services</b>	
	Professional and administrative functions in respect of licensing, authorisation and compliance functions including health and safety at work, nuisance, dog fouling, litter and food safety and anti-social behaviour. General functions in respect of bereavement services and burials, re-cycling, pollution control, contaminated land, energy conservation, <del>public toilets and</del> traffic regulation and car parking.
<b>Head of <del>Community Services</del></b>	
	Professional and administrative functions in respect of support for the voluntary sector, managing SLA's, <del>economic development, other grants, the Single Regeneration Budget, sport, leisure, cultural services (including the art gallery and museum), concessionary fares,</del> anti-social behaviour and crime and disorder
<b>Head of <del>Human Resources</del></b>	
	<del>Professional and administrative functions in relation to facilities management (to 2005) printing</del>
<b>Head of <del>Income &amp; Debt Management</del>Customer Services</b>	
	Professional and administrative functions in relation to the administration of Council Tax and Non Domestic Rates, Housing and Council Tax Benefits, <del>benefit fraud administration, and debt management</del> <u>and customer services</u>
<b>Head of Environmental Care</b>	
	Emergency planning and professional and administrative functions in respect of waste collection and litter, the street scene generally, drainage, road closures, cctv, the markets and grounds maintenance



<b>Constitutional Affairs</b>	
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**Council**

	To elect the Mayor and appoint the Deputy Mayor
	To adopt and change the Constitution
	To appointing and remove the Leader of the Council
	To agreeing and/or amend the terms of reference for committees, to decide on their composition and make appointments to them
	To appoint review boards and of representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council
	To changing the name of an area, to confer the title of Honorary Alderman or admit to the honorary freedom of the Borough
	To make, amend, revoking, re-enact or adopt byelaws and promoting or opposing the making of local legislation or personal Bills in Parliament
	Appoint a returning officer for local government elections
	Power to create new parish councils, dissolve small parish councils, to make orders for grouping parishes, dissolving groups and separating parishes from groups and to change the name of a parish

**Executive**

	Appoint committees to the Executive and to set their terms of reference
	Keep the Constitution under review
	Appoint/ nominate representatives to outside bodies where such appointments are in connection with functions that are the responsibility of the Executive

**Officers**

**Head of Democratic & Legal Services**

	To make in year changes to the membership of committees and
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	review boards and to make appointments and nominations to outside bodies in consultation with the Leaders of the political groups
	Functions relating to elections generally and assisting the returning officer
	<u>To make minor administrative changes to the Constitution, to reflect, for example, changes in management structure, changes in legislation, or other changes that do not have a significant impact</u>

**Planning and Development Control**

**Council**

Approving the Plans and alterations which together comprise the Local Development Framework

**Executive**

A consultee of the Planning Policy Committee in respect of the Plans and alterations which together comprise the Development Plan

**Joint Planning Committee**

To exercise the powers of the Councils in determining the Joint Spatial Strategy and acting as a consultee in respect of:

- The Local Development Scheme
- The Statement of Community Involvement
- The Core Spatial Strategy, which will cover strategic issues including:-
  - Statement of Vision and objectives
  - Future role and function of the main settlements
  - Development requirement to be associated with the main settlements (including housing and employment)
  - Location and intended broad form of major urban extensions
  - Sequence in which it is intended that development should take place
  - Infrastructure and service requirements
- Necessary Implementation policies where a consistent view is needed across the area, including strategic policies on design and developer contributions.
- Monitoring and implementation framework
- Local Development Documents or Supplementary Planning Documents forming part of any of the individual LDF for North Northamptonshire subject to the agreement of the Councils as necessary.

	Approval of the Joint Spatial Strategy
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**Planning Policy Committee**

	Consider and recommend to Council for approval the Plans and alterations which together comprise the Development Plan and
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	Consider and make recommendations to the Council and any Joint Committee established by order of the Secretary of State in respect of strategic planning policy issues that affect the area
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**Planning Committee**

	Act on behalf of the Council in its role as Local Planning Authority including in respect of conservation areas, special advertisement areas, listed buildings, footpaths and tree preservation
--	---

	Determine applications for planning permission (including their revocation or modification)
--	---

	Authorise enforcement action in respect of these planning and development control functions including those functions set out in Part 8 of the Anti Social Behaviour Act 2003
--	---

	Comment on planning applications submitted to or by other local planning authorities and statutory undertakers
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**Officers**

**Head of Democratic & Legal Services**

	General functions in respect of footpaths
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**Head of Development ~~Services~~ Control**

	<p>To determine all planning applications and applications for advertisement consent, listed building consent and conservation area consent and to comment on those referred to the Council by neighbouring authorities, except where:-</p> <p>(a) a ward member (or a ward member for a ward in which land or residents are likely to be directly affected) requests in writing to the Head of Development Services, prior to the expiry of the publicity/notification period that a proposal</p>
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	<p>within their ward should be the subject of consideration by the relevant committee;</p> <p>(b) the proposal, if approved, would constitute, in the opinion of the Head of Development Services, a material departure from the Local Plan and approval is recommended;</p> <p>(c) the proposal has been the subject of a written material planning objection(s) within the relevant stipulated time span, which has not been resolved to the satisfaction of the Head of Development Services through negotiation and/or the proposed imposition of condition(s), approval is recommended and the Planning Chairs' Panel agree with the Head of Development Services that the proposal will be reported to committee;</p> <p>(d) the proposal is substantively supported by a statutory consultee (including town/parish councils), refusal is recommended and the Planning Chairs' Panel agree with the Head of Development Services that the proposal will be reported to committee;</p> <p>(e) the proposal is known to be submitted by, or on behalf of, an elected member of the authority (or a relative or a friend) or by any member of the Council's staff (or their spouse /partner)</p>
	<p>To agree to enter into new, or amend existing, legal agreements in respect of proposed developments where the Head of Development Services and the Head of Legal and Democratic Services agree that the content of such an agreement will be substantially similar to an existing agreement.</p>

	<b>General functions in respect of tree preservation</b>
	<p>To authorise enforcement action in respect of all planning and development control functions including those functions set out in the Anti-Social Behaviour Act 2003 except where:-</p> <ul style="list-style-type: none"> <li>a) a ward member has requested that a breach of planning control be referred to the Planning Committee;</li> <li>b) the Head of Development Services considers the matter should be referred to the Planning Committee where the action is significant or controversial.</li> </ul>
	<p>To determine applications for:</p> <ul style="list-style-type: none"> <li>(i) certificates of lawfulness of Existing Use or</li> <li>(ii) Development Certificates of Lawfulness of Proposed Use of Development and</li> <li>(iii) Change of Use Certificates</li> </ul>

**Licensing and Registration**

**Licensing Committee**

	Act on behalf of the Council in its role as licensing authority, particularly to determine license applications, set fares for hackney carriages and the appropriate number of hackney carriage licenses
	To review and revise the Council's Statement of Licensing Policy as and when appropriate
	To receive reports about Premises and Licenses, club premises, certificates and grants of personal licenses and Temporary Grant Notices, and the impact of the licensing regime on the economic, social and environmental well-being of the Borough

**Licensing Sub-Committee**

	<b>Nature of Event</b>	<b>Conditions</b>
	Application for personal licence	If a police objection is made
	Application for personal licence with unspent convictions	All cases
	Application for premises licence/ club premises certificate	If a relevant representation made
	Application for provisional statement	If a relevant representation made
	Application to vary premises licence/ club premises certificate	If a relevant representation made
	Application to vary designated premises supervisor	If a police objection is made
	Application for transfer of premises licence	If a police objection is made
	Application for interim authorities	If a police objection is made

	Application to review premises licence/ club premises certificate	All cases
	Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases
	Determination of a police objection to a temporary event notice	All cases

**Officers**

**Head of ~~Environmental Health~~ Public Services**

	General licensing, registration and compliance functions
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	Nature of Event	Conditions
	Application for personal licence	If no objection is made
	Application for premises licence/ club premises certificate	If no relevant representation made
	Application for provisional statement	If no relevant representation made
	Application to vary premises licence/ club premises certificate	If no relevant representation made
	Application to vary designated premises supervisor	If no police objection is made
	Request to be removed as designated premises supervisor	All cases
	Application for transfer of premises licence	If no police objection is made



	Application for Interim authorities	If no police objection is made
	Decision on whether a complaint is irrelevant frivolous vexatious etc	All cases

**Employment Matters**

**Council**

	Confirming the appointment of, and dismissing, the Head of Paid Service, the designation of Monitoring Officer and <b>Responsible Chief</b> Finance Officer and the appointment of Proper Officers
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**Executive**

	Consider the proposed appointment/dismissal of <b>Executive Directors</b> <del>deputy chief executives</del> and service heads.
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**Employment Committee**

	To receive reports from the Head of Paid Service and or the Head of <del>Human</del> -Resources on strategic employment policies, i.e. those employment policies immediately and directly affecting all employees
	To work with the employee side representatives to promote effective communications and consultation between the Council and its employees on general personnel matters
	Functions in respect of the exercise of discretion under the local government pension scheme including the award of discretionary payments

**Appointments Committee**

	Recommend to Council the appointment or dismissal of the Head of Paid Service
	Determine the terms and conditions of service of the Head of Paid Service and other employment related issues as they apply to that post.
	Appointment or dismissal of <b>Executive Directors</b> <del>deputy chief executives</del> and service heads
	Disciplinary action against Head of Paid Service (short of dismissal), <b>Executive Directors</b> <del>deputy chief executives</del> and service heads, the Monitoring Officer (and Deputy) and <b>Chief</b>

	<del>Finance Officer</del> <del>Head of resources</del> <del>Chief Finance Officer</del> (and Deputy) in accordance with the relevant provisions
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### Appeals Committee

	Determination of appeals by an officer against decisions taken in respect of that officer by the Appointments Committee <del>or, in the case of political assistants, by the Proper Officer</del>
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### Officers

#### Head of ~~Human~~ Resources

	General functions in relation to employment matters
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### Proper Officer Functions

Without limiting the delegation in the General Provisions above the following Proper Officer functions rest, in the first instance with the following people: -

#### Chief Managing Director Executive

- Head of Paid Service
- The Returning Officer and Electoral registration Officer responsible for all fFunctions relating to the electoral process
- Any Proper Officer functions not falling within the responsibility of any other officer

#### Head of Democratic & Legal Services

- Monitoring Officer
- Constitutional functions
- Receipt/authentication/certification/signature/sealing of documents including as Parish Trustee for a Parish Meeting

#### Head of Resources~~Finance~~

- Responsibility for the financial affairs of the Council
- 

#### ~~Head of Customer Services~~Executive Director (Lisa Hyde)

- Data Protection Officer
- Freedom of Information

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- ~~Data Protection and Freedom of Information~~

The person notified to the Authority from time to time by Public Health  
England~~the Health Protection Agency~~

- The control of disease

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## **1. Purpose and Interpretation of These Rules**

**1.1** The purpose of these rules is to ensure that the Council conducts its meetings in a way which:

- 1.** enables decisions to be taken openly, efficiently and well
- 2.** supports the involvement of groups or individuals in the process of decision making
- 3.** helps councillors represent their constituents effectively
- 4.** holds decision makers to public account
- 5.** respects personal and family life
- 6.** protects the rights of minority political groups on the Council

## **1.2** Interpretation

The Chair of a meeting shall interpret these rules in accordance with the purposes stated above and their decision on the interpretation and application of these rules shall not be challenged at the meeting.

## **1.3** Definitions

In these rules

'clear days' excludes the day on which the action described is taken and the day of the meeting

'working days' means the 24 hour period from midnight to midnight in any day other than a Saturday, a Sunday, Christmas Eve, Christmas Day, Good Friday, a Bank Holiday in England or a day appointed for public thanksgiving or mourning, and any other day which may be designated by the Council.

'confidential' and 'exempt' information has the meaning given in the Access to Information Procedure Rules

## **2. Annual Meeting of the Council**

### **2.1** Timing and business

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

The annual meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) appoint the Deputy Mayor;
- (iv) approve the minutes of the last meeting.
- (v) receive any declarations of interest from members;
- (vi) receive any announcements from the Mayor and/or head of the paid service;
- (vii) elect the Leader in the year of the Ordinary Local Elections;
- (viii) indicate a preference for the nomination of the Deputy Leader;
- (ix) indicate a preference for the number of members to be appointed to the Executive;
- (x) receive notification of the appointment of members of the executive, if available
- (xi) receive notification of the appointment of the Leader of the Opposition;
- (xii) appoint two Scrutiny Committees, a Standards **Advisory** Committee and such other committees as the Council considers appropriate;
- (xiii) agree such part of the scheme of delegation in relation to matters that are neither reserved to the Council nor are executive functions and to such other matters as the Council may determine (as set out in Part 3 of this Constitution);
- (xiv) approve a programme of meetings of the Council for the year; and
- (xv) consider any business set out in the notice convening the meeting.

## **2.2 Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the council meeting will:

- (i) decide which committees (and may decide which sub-committees) to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees and sub-committees;
- (iii) decide the allocation of seats (and substitutes) to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors and co-opted members to serve on each committee, sub-committee and outside body; and

- (v) appoint to those committees, sub-committees and outside bodies except where appointment to those bodies has been delegated by the Council

At the annual meeting, the Council may appoint Chairs and Deputy Chairs for committees and sub-committees.

### **3. Ordinary Meetings**

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

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Mayor, leader or head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which have been included on the agenda;
- (vi) receive any public deputations and petitions;
- (vii) deal with any business from the last Council meeting;
- (viii) consider any reports from the Monitoring Officer or Chief Finance Officer;
- (ix) receive reports from the Council's executive and committees and receive questions and answers on any of those reports;
- (x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xi) consider motions;
- (xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate; and
- (xiii) consider any business which the Chair accepts as an item of urgent business



## **4. Extraordinary Meetings**

### **4.1 Calling extraordinary meetings**

Those listed below may request the proper officer to call Council meetings in addition to scheduled ordinary or special debate meetings:

- (i) the Council by resolution;
- (ii) the Mayor and if the Office of Mayor is vacant or if the Mayor is unable to act for any reason, the Deputy Mayor;
- (iii) the Head of Paid Service;
- (iv) the ~~M~~onitoring ~~O~~fficer;
- (v) the ~~Responsible Finance Officer~~ ~~chief-finance-officer~~; and
- (vi) any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **4.2 Business**

The request to call an extraordinary meeting shall specify the business to be transacted which shall be included in the summons to the meeting. An extraordinary meeting will not be called if the requested business cannot be considered by the Council by law or the constitution. If the meeting requested is a special debate meeting, the summons shall not be issued until each leader of a political group (or their deputy) has been given the opportunity to include an item for debate on the agenda.

## **5. Appointment of Substitute Members of Committees and Sub-Committees**

### **5.1 Allocation**

Except for the Joint Committee and the Standards Committee, as well as allocating seats on committees and sub-committees, the Council may allocate substitute members for each committee and sub-committee.

### **5.2 Number**

For each committee or sub-committee, the Council may appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee or sub-committee, up to a maximum of 5.

Substitute members must have received training appropriate for the role. The names of the substitutes appointed shall be published with the names of the members of the committee or sub-committee.

### **5.3 Powers and duties**

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

### **5.4 Substitution**

Substitute members may attend meetings in that capacity only to take the place of the ordinary member for whom they are acting as substitute.

**5.5** Substitute members must inform the Head of Democratic and Legal Services or the relevant committee administrator prior to the start of the meeting that they will be substituting and for whom, so that everyone is clear on the membership for that meeting. The substitution will begin at the start of the meeting and finish at its end and the member being substituted for will have no rights to act as a member of the body involved during that time.

## **6. Time and Place of Meetings**

The time and place of meetings will be determined by the proper officer, after consultation with the Chair and Deputy Chair where practicable, and notified in the summons.

## **7. Notice of Summons to Meetings**

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 working days before a meeting, the proper officer will send a summons signed by him or her 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.

## **8. Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the chair. Where these rules apply to committee and sub-committee meetings,

references to the Mayor also include the chair of committees and sub-committees.

## **9. Quorum**

The quorum of a meeting will be one quarter of the whole number of members or 3 whichever is the greater. If 20 minutes after the time fixed for any meeting a quorum is not present, the meeting shall be adjourned to a time and date before the next ordinary meeting.

## **10. Duration of Meeting**

If the business of the meeting has not been concluded by 10pm the meeting shall be then adjourned to a time and date before the next ordinary meeting, unless the meeting decides otherwise.

## **11. Questions by the Public**

### **11.1 General**

Members of the public may ask questions of the leader of the council, any portfolio holder and any chair of a committee at ordinary meetings of the Council.

### **11.2 Order of questions**

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

### **11.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer no later than midday 7 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must indicate the member of the Council to whom it is to be put.

### **11.4 Number of questions**

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

### **11.5 Scope of questions**

The proper officer may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the borough;

- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- discloses or requires the disclosure of confidential or exempt information;
- is a matter which must be dealt with in accordance with the regulatory and appeals proceedings rules, or an individual staffing matter; or
- is a matter on which the Council must follow other rules or procedures contained in the constitution.

Anyone who has asked a question that is rejected will receive in writing the reasons for the rejection and the means by which the questioner can pursue the issue if appropriate.

#### **11.6 Record of questions**

The proper officer will enter each accepted question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put.

Copies of all accepted questions will be circulated to all members and will be made available to the public attending the meeting.

#### **11.7 Asking the question at the meeting**

The Mayor will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. No question may exceed 3 minutes.

#### **11.8 Written answers**

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

#### **11.9 Reference of question to the executive or a committee**

Unless the Mayor 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 executive or to the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

## **12. Deputations and Petitions**

**12.1** Deputations may be received at any meeting of the Council, except the Annual Meeting, provided that eight clear working days' notice has been given to the proper officer detailing the purpose and subject matter of the deputation.

**12.2** One member of the deputation may speak, and the speech inclusive of the reading of any petition, shall not exceed five minutes.

**12.3** Up to fifteen minutes may be set aside for presentations of this kind at each meeting.

**12.4** Once the Council has been addressed and any petition submitted, the Mayor shall ask the Leader or the Chair of the relevant Committee or the relevant portfolio holder either to:-

- (a)** respond verbally to the deputation or petitioner; or
- (b)** move that the question(s) raised be referred to the Executive or appropriate Committee for detailed consideration.

**12.5** Where an issue has been referred under Rule 12.4(b) a representative of the deputation shall be invited to represent their case to the Executive or Committee, subject to the same time and other limitations as apply to Executive and Committee meetings being applicable.

**12.6** The proper officer may reject a request for the Council to receive a deputation or petition if it:

- is not about a matter for which the Council has a responsibility or which affects the borough;
- is defamatory, frivolous or offensive;
- is substantially the same issue as a deputation or petition that has been received at a meeting of the Council in the past six months;
- discloses or requires the disclosure of confidential or exempt information;

- is a matter which must be dealt with in accordance with the regulatory and appeals proceedings rules, or an individual staffing matter; or
- is a matter on which the Council must follow other rules or procedures contained in the constitution.

Anyone who has a request that is declined will receive in writing the reasons for the rejection and the means by which the questioner can pursue the issue if appropriate.

Further information is included in the Council's Petition Scheme at Schedule 1 to the Council Procedure Rules.

### **13. Questions by Members**

#### **13.1 On reports of the executive or committees**

A member of the Council may ask the leader, a portfolio holder or a chair of a committee any question without notice upon an item of the report of the executive or a committee when that item is being received or under consideration by the Council.

#### **13.2 Questions on notice at full Council**

Subject to rule 13.4, a member of the Council may ask:

- the Mayor;
- any member of the executive; or
- the chair of any committee or sub-committee

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

#### **13.3 Questions on notice at committees and sub-committees**

Subject to Rule 13.4 a member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or sub-committee.

#### **13.4 Notice of questions**

A member may only ask a question under Rule 13.2 or 13.3 if either:

- (a) they have given at least 24 hours notice in writing of the question to the proper officer; or

(b) the question relates to urgent matters, they have the consent of the chair to whom the question is to be put and the content of the question is given to the proper officer by 5.00 pm on the day of the meeting.

### **13.5 Response**

An answer may take the form of:

- (a) a direct written answer circulated at the meeting;
- (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 at the meeting, a written answer circulated later to the questioner and available to all members.

### **13.6 Supplementary question**

A member asking a question under Rule 13.2 or 13.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## **14. Motions on Notice**

14.1 Except for motions which can be moved without notice under Rule 15, written notice of every motion, must be delivered to the proper officer not later than 7 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

### **14.2 Motion set out in agenda**

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

### **14.3 Scope**

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

## **15. Motions Without Notice**

The following motions may be moved without notice:

- (a) to appoint a chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;

- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

## **16. Rules of Debate**

### **16.1 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.

### **16.2 Right to require motion in writing**

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

### **16.3 Secunder's speech**

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

### **16.4 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 8 minutes~~



~~without the consent of the chair.~~ No speech may exceed 5 minutes by the mover of the motion or by 3 minutes in all other cases without the consent of the Mayor.

## 16.5 When a member may speak again

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

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

## 16.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **16.7 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.

#### **16.8 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.

#### **16.9 Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (d) The leader and a chair of a committee has the right to speak on any matter referred to in the report of the executive or their committee

respectively and the right of reply before any motion on the subject is put to the vote.

### **16.10 Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

### **16.11 Closure motions**

The following closure motions may be moved during discussion of another motion, and shall be seconded and put without discussion, provided that the Chair considers the subject under debate has been fully discussed. If the motion is carried it shall be implemented forthwith:-

- (a) "that the meeting proceed to the next business";
- (b) "that the question be now put";
- (c) "that the debate be now adjourned";
- (d) "that the meeting do now adjourn".

None of these motions shall be moved a second time in relation to the same matter, within a period of half an hour, unless moved by the Chair.

### **16.12 Point of order**

A member may raise a point of order at any time. The chair will hear them 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 chair on the matter will be final.

## **16.13 Personal explanation**

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

## **17. Presentation of Reports**

**17.1** The report of the executive or a committee shall be presented to the Council by the leader or the chair or the person who chaired the meeting, or in their absence by such other member as the Mayor shall decide.

**17.2** The leader, chair or member presenting the report shall first submit the recommendations of the executive or committee. Once the recommendations and any motions and amendments have been dealt with, any member may seek the consent of Council to withdraw any other item in the report and refer it back to the executive or committee for further consideration.

**17.3** The Mayor shall then invite questions to the leader, portfolio holder or chair under Rule 13.1.

**17.4** Once all motions, amendments, recommendations, referrals and questions have been dealt with the chair, or other member presenting the report, shall move adoption and the motion shall be put and voted on without further discussion.

**17.5** The Mayor shall then invite questions to the leader, portfolio holder or chair under Rule 13.2.

## **18. Previous Decisions and Motions**

### **18.1 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 half of the members of the Council.

### **18.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the

notice of motion or amendment is signed by at least half of the members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **19. Voting**

### **19.1 Majority**

Unless the law or 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.

### **19.2 Chair's casting vote**

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

### **19.3 Show of hands**

Unless a recorded vote is demanded under Rule 19.4, the chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **19.4 Recorded vote**

If a requisition is made by the specified number of members, before a vote is taken on any question, the voting on that question shall be recorded so as to show whether each member present gave his/her vote for or against that question or abstained.

The specified number of members is:-

- (a) one fifth of the members entitled to vote at the meeting, or
- (b) where the Council is divided into political groups, in the case of a meeting of the Council, the number of members of the second largest political group, or, in the case of a meeting of a Committee or Sub-Committee, the number of seats on that body allocated to the second largest political group among the members of the Council.

whichever is less.

### **19.5 Recorded vote at budget decision-making meetings**

A recorded vote shall be taken at any budget decision-making meeting of the Council, as defined by The Local Authorities (Standing Orders)

(England) (Amendment) Regulations 2014, including any amendments to the motion, and there shall be recorded in the minutes the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **19.6 Right to require Individual vote to be recorded**

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

### **19.7 Voting on appointments**

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

## **20. Minutes**

### **20.1 Signing the minutes**

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

### **20.2 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.

### **20.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the chair put them.

## **21. Record of Attendance**

A record will be made of all members present during the whole or part of a meeting.

## **22. 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 24 (Disturbance by Public).

## **23. Members' Conduct**

### **23.1 Standing to speak**

When a member speaks at full Council they must stand (unless they are unable to do so and with the consent of the Mayor) and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **23.2 Mayor standing**

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

### **23.3 Member not to be heard further**

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

### **23.4 Member to leave the meeting**

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

### **23.5 General disturbance**

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

## **24. Disturbance by the Public**

### **24.1 Removal of member of the public**

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

### **24.2 Clearance of part of meeting room**

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

## **25. Suspension and amendment of Council Procedure Rules**

### **25.1 Suspension**

All of these Council Rules of Procedure except Rules 1, 2, 3, 4, 7, 8, 9, 18, 19, 20, 21 and 22 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.

## **26. Application to Committees and Sub-Committees**

All the foregoing Council Rules of Procedure apply to meetings of full Council. Rules 1, 5.3, 5.4, 6-11, 19-22, 24, 27 – 28 apply to meetings of the executive, committees and sub-committees. Rules 5.5 and 29 apply to all meetings

## **27. Right to Speak**

**27.1** With the exception of the consideration of planning and licensing matters, and at the discretion of the chair, a member of the public may speak for up to 3 minutes on any item considered in the public part of a meeting before it is considered by members provided that the scope of any address to the meeting is within the grounds specified in Rule 11.5.

**27.2** Immediately after the chair has indicated if any urgent items of business are to be considered at the meeting, members of the public shall be invited to inform the meeting if they wish to speak.

**27.3** Where a number of people want to make similar points on an item, the chair may decide that only one person should speak on their behalf.



27.4 Where the matter under consideration is referred to another meeting for a decision, anyone who has previously spoken shall be informed of the date and time of that other meeting.

27.5 Nothing in these rules prevents a meeting from allowing greater public participation in a meeting.

## **28. Reference up of Decisions**

28.1 Subject to Rule 28.2, where a committee or sub-committee has determined an issue before it, and has then immediately been asked to forego its powers of determination, there shall be a vote on the use of those powers in that particular instance. If no fewer than two-fifths of the voting members of that committee or sub-committee present at the meeting ask that the provisions of this Rule be applied, then the decision shall be of no effect but shall be treated as a recommendation to the Council or to the parent committee as the case may be.

28.2 Rule 28.1 shall not apply to any question which arises on an item of business: -

- (a) where the committee or sub-committee has, under an obligation beyond Rule 27 and arising from the nature of the business to be transacted, heard representations from persons other than members of the Council and those appointed by the authority to discharge a function in connection with the committee or sub-committee; or
- (b) which concerns the appointment, discipline or dismissal of a member of the Council's staff; or
- (c) which concerns a planning application, unless at least half of those present decide to refer the item to the Council or a committee, as the case may be.

## **29 Disclosable Pecuniary Interests**

If a member or co-opted member of the Council has a Disclosable Pecuniary Interest in a matter to be considered or being considered at a meeting of the Authority at which they are present, they may not, unless they have been granted a dispensation to do so, participate or participate further in any discussion of or vote taken on that matter and shall withdraw

# **Kettering** *Borough Council*

## **Part 4** **Rules of Procedure** **Council Procedure Rules**

from the room or chamber where the meeting considering the matter is being held.

## **Purpose and Interpretation**

1. The purpose of these rules is to ensure that: -
  - the Council adopts and maintains the policy framework and the budget
  - councillors, local people or other stakeholders have the opportunity to inform proposals for inclusion in the policy and framework and budget by providing facts, analysis and opinion.
  - disagreements between the Council and Executive are minimised by good communication between them, and resolved efficiently where they do arise.

## 2. In these Rules

'the budget and policy framework' has the same meaning as in Article 4 of the Constitution;

'the executive' has the same meaning as in Article 9 of the Constitution;

'the forward plan' has the same meaning as in Access to Information Procedure Rules of the Constitution;

'the proper officer' means the member of staff to whom this function has been assigned as listed in Part 3 of the Constitution;

'the leader' means the Leader of the Council as described in Article 9 of the Constitution, and the Deputy Leader in the absence or incapacity of the Leader;

'working days' means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning, and any other day which is designated by the Council;

'virement' has the same meaning as in the Financial Regulations of the Constitution.

## **The Framework for Decision Making**

3. The Council is responsible for the adoption of its budget and policy framework as set out in Article 4 of the Constitution. Once a budget or a policy framework is in place, it is the responsibility of the executive to implement it, subject to the power of Council to add to the policy framework.

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## **Process for Developing the Framework**

4. The process by which the budget and policy framework shall be developed is:-  
The Executive will agree the formulation and consultation processes for the policies and budgets in the Budget and Policy Framework prior to the start of these

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processes, including appropriate timescales. This will include specific details about any formal consultation period (including its duration) and will also outline the decision making process. Details of the relevant Executive report will be included in the Council's Forward Plan

- 4.1 The executive's initial proposals shall be referred to the Research & Development Committee for further advice and consideration. The proposals will be referred by sending a copy to the proper officer who will forward them to every member. The Research & Development Committee, or a task and finish group established by that committee, shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the executive. The Research & Development Committee, or task and finish group as appropriate, shall report to the executive on the outcome of its deliberations. The Research & Development Committee shall have at least six weeks to respond to the initial proposals of the executive unless the executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the committee of these special factors and the time for response when the proposals are referred to it.
- 4.2 Having considered the report of the committee or task and finish group, the executive, if it considers it appropriate, may amend its proposals before submitting them to the council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the committee or task and finish group.
- 4.3 The Council will consider the proposals of the executive and, subject to Rule 4.5 below, may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executive's proposals and any report from any relevant Performance & Improvement and scrutiny committee.
- 4.4 Before the Council -
- (a) amends the draft plan or strategy;

- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,  
it must inform the leader of any objections which it has to the draft plan or strategy and must give the leader instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- 4.5 Where the Council gives instructions in accordance with Rule 4.5, it must specify a period of at least seven clear working days beginning on the day on which the leader receives the instructions on behalf of the executive within which the leader may -
- (a) submit a revision of the draft plan or strategy as amended by the executive (the revised draft plan or strategy), with the executive's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or
  - (b) inform the Council of any disagreement that the executive has with any of the Council's objections and the executive's reasons for any such disagreement.
- 4.6 Where the Council fails to specify the period required in Rule 4.6, a period of seven clear working days shall be applied as if this had been so specified.
- 4.7 When the period specified by the Council under Rule 4.6, or applied under Rule 4.7, has expired, the Council must, when –
- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is to be so submitted; or
  - (c) adopting (with or without modification) the plan or strategy,
- take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the Council's

objections and the executive's reasons for that disagreement, which the leader submitted to the Council, or informed the Council of, within the period specified.

4.8 Subject to Rule 4.14 where, before 8<sup>th</sup> February in any financial year, the executive submits to the Council for its consideration in relation to the following financial year -

(a) estimates of the amount to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;

(b) estimates of other amounts to be used for the purposes of such a calculation;  
or

(c) estimates of such a calculation;

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in Rule 4.10.

4.9 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 4.9(a) it must inform the leader of any objections which it has to the executive's estimates or amounts and must give instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

4.10 Where the Council gives instructions in accordance with Rule 4.10, it must specify a period of at least seven clear working days beginning on the day on which the leader receives the instructions on behalf of the executive, within which the leader may -

(a) submit a revision of the estimates or amounts as amended by the executive (the revised estimates or amounts) which have been reconsidered in accordance with the Council's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or

(b) inform the Council of any disagreement that the executive has with any of the Council's objections and the executive's reasons for any such disagreement.

4.11 Where the Council fails to specify the period required in Rule 4.11, a period of seven clear working days shall be applied as if this had been so specified.

4.12 When the period specified by the Council, or applied by Rule 4.12, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 4.9(a) take into account -

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the Council's objections; and
- (d) the executive's reasons for that disagreement,

which the leader submitted to the Council, or informed the Council of, within the period specified or applied.

4.13 Rules 4.9 to 4.13 shall not apply in relation to calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992.

4.14 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with Rules 6 & 7 (virement and in-year adjustments) and may specify consultation requirements. Any other changes to the budget and policy framework are reserved to the Council.

#### **Decisions Outside the Budget or Policy Framework**

5.1 Subject to the provisions of Rule 7 (virement), the executive, committees of the executive and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to Rule 5.2 below.

~~5.2~~ If the executive, committees of the executive, and any officers, area committees or joint arrangements discharging executive functions want to make a decision outside the budget or policy framework, they shall take advice from the Monitoring

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Officer and the Responsible ~~Finance Officer~~ ~~financial officer~~ as to whether the decision they want to make

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would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6 (urgent decisions outside the budget and policy framework) shall apply.

### Urgent Decisions Outside the Budget or Policy Framework

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- 6.1 The executive, a committee of the executive, or officers, area committees, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken if:
- (a) It is not practical to convene a quorate meeting of the full Council; and
  - (b) the chair of the Research & Development Committee agrees that the decision is a matter of urgency.
- 6.2 The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the Research & Development Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of the Research & Development Committee, the consent of the mayor and in the Mayor's absence, the deputy mayor will be sufficient.
- 6.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### Virement

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7. Neither the executive nor any officer nor any other person or body shall exceed the budget allocated to each budget head unless by virement in accordance with the Financial Procedure Rules of the Constitution.

### In-Year Changes to Policy Framework

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8. The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive or committee of the executive or officers with delegated authority must be in line with it. No changes to any policy and

strategy which make up the policy framework must be made by the executive or officer with delegated authority except changes:

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (b) 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 and it is not practicable to refer the matter to the Council for determination.

#### Call In of Decisions Outside the Budget or Policy Framework

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- 9.1 The procedure for the call-in of decisions within the budget or policy framework shall be in accordance with Rule 16 of the Scrutiny Procedure Rules.
- 9.2 Where an Research & Development Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and Responsible Finance Officer as appropriate.
- 9.3 In respect of functions which are the responsibility of the executive, the monitoring officer's report or Responsible finance officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Responsible Finance Officer conclude that the decision was a departure, and to the Research & Development Committee if the Monitoring Officer or the Responsible Finance Officer conclude that the decision was not a departure.
- ~~9.4~~ If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer or the Responsible Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Research & Development Committee

may refer the matter to Council. In such case, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within seven clear working days of the request by the Research & Development Committee or at such later date as may be fixed by the

proper officer in consultation with The Mayor, the Leader, the chair of the Research & development Committee and their deputies, if practicable. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring officer or the Responsible Finance officer. The Council may either:

- (a) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (b) amend the council's finance procedure rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring officer or Responsible Finance officer.

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**1. Purpose and Interpretation**

**1.1 The purpose of these rules is to ensure that**

- the appointment of staff is made on merit
- the accountability of staff is to the Council as a whole and expressed through the management structure
- except for senior staff, all employment decisions and personnel functions are the responsibility of the Head of Paid Service or their nominee

**1.2 In these rules**

- The 1989 Act means the Local Government and Housing Act 1989
- The 2000 Act means the Local Government Act 2000
- Executive and executive leader have the same meaning as in Part II of the 2000 Act
- Member of staff means a person appointed to or holding a paid office or employment under the authority
- The Committee means the Appointments Committee or Appeals Committee or a panel of at least three members drawn from those committees
- Disciplinary action means any action occasioned by alleged misconduct which, if proved, would, according to the Council's usual practice, be recorded on the member of staff's personal file. It includes any proposal for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract
- Appointor means the authority in the case of the head of the paid service, the Appointments Committee or a panel thereof in relation to chief officers and service heads and the head of the paid service or officer they have nominated in relation to all other staff.
- Dismissor means the authority or, where the Committee or another officer is discharging the function of dismissal on behalf of the authority, that Committee or other officer as the case may be.

- ~~Designated~~ independent person has the same meaning as in ~~Schedule 3 Regulation 7~~ of the Local Authorities (Standing Orders) (England) ~~(Amendment) Regulations~~ Regulations 20~~15~~~~04~~
- Proper officer means an officer appointed by the authority for the purposes of the provisions in these rules as recorded in Part 3 of the constitution.

## 2. Appointment and Dismissal of Staff

2.1 Subject to Rules 2.2, 2.13 and 4.5, the function of appointment and dismissal of a member of staff must be discharged, on behalf of the authority, by the head of the paid service or by an officer they have nominated.

2.2 Rule 2.1 does not apply to the appointment or dismissal of –

- The officers designated as the ~~H~~head of the ~~p~~paid ~~s~~service, the ~~M~~monitoring ~~e~~officer, the ~~Responsible Finance Officer~~ chief finance officer ~~(and the deputy monitoring officer and deputy chief finance officer in relation to dismissal)~~;
- A chief officer or a service head as defined by Article 12 of the constitution

2.3 Where the Council intends to appoint a member of staff: -

- a job description and person specification shall be prepared;
- an advertisement of the vacancy shall be placed in relevant newspapers and/or journals; and
- copies of the job description and person specification shall be sent to any person on request.

2.4 Where the post has been advertised as provided in Rule 2.3, the appointor shall either interview all applicants or those drawn up on a short-list for interview by the appointor or, for a Chief Officer or Service Head post, by the ~~H~~head of the ~~P~~paid ~~s~~service or an ~~Executive Director~~ deputy chief executive.

2.5 The Council will draw up a statement requiring any candidate for appointment as a member of staff to state in writing whether they are a

relative of any serving councillor or member of staff, or of the partner of such a relative.

- 2.6 No candidate so related to a councillor or a member of staff will be appointed without the authority of a chief officer or a member of staff nominated by him/her who is not so related.
- 2.7 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.8 No councillor will seek support for any person for any appointment with the Council other than as part of a bona fide analysis of applicants when acting as a member of an appointor body.
- 2.9 Every appointment ~~or dismissal~~ ~~or dismissal~~ of a Chief Officer or Service Head, other than the Head of the Paid Service, Responsible Finance Officer or Monitoring Officer, shall be made by the Committee which shall have delegated powers to act, and which must include at least one member of the executive.
- 2.10 Where the committee is considering the appointment ~~or dismissal~~ of the ~~Head of the Paid Service~~ Responsible Finance Officer or the Monitoring Officer it shall make its recommendation to the Council. No offer of appointment ~~or notice of dismissal~~ shall be issued until the Council has approved this action.
- 2.11 The appointor shall not make an offer of appointment as a Chief Officer or Service Head until –
- (a) they have notified to the proper officer the name of the person to whom they wish to make the offer and given to the proper officer such other particulars as the appointor considers are relevant to the appointment;
  - (b) the proper officer has notified every member of the executive of the authority of –
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars the appointor has provided; and

- (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either –
  - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither the leader nor any other member of the executive has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointor that no objection was received within that period from the executive leader; or
  - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

2.12 Notice of the dismissal of a Chief Officer (other than the Head of Paid Service, Responsible Finance Officer, Chief Finance Officer or Monitoring Officer) or Service Head must not be given by the dismissor until –

- (a) they have notified the proper officer of the name of the person whom they wish to dismiss and such other particulars as the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of –
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars the dismissor has provided; and
  - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either –
  - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither the leader nor any other member of the executive has any objection to the dismissal;

- (ii) the proper officer has notified the dismissor that no objection was received within that period from the executive leader; or
- (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

2.13 Nothing in Rule 2.1 shall prevent a person from serving as a member of the Appeals Committee to consider an appeal by a member of staff of the authority against any decision relating to the dismissal of that member of staff. ?

### 3. Disciplinary Action

3.1 Subject to Rules 3.2, 3.5 and 4.5, the function of taking disciplinary action against a member of staff must be discharged, on behalf of the authority, by the head of the paid service or by an officer they have nominated.

3.2 Rule 3.1 does not apply to the taking of disciplinary action against –

- The officers designated as the Head of the Paid Service, the Monitoring Officer, or the Responsible Finance Officer/Chief Finance Officer (and the deputy monitoring officer and deputy chief finance officer in relation to dismissal);
- A chief officer or a service head as defined by Article 12 of the constitution

~~3.3. No disciplinary action in respect of the Head of the Authority's Paid Service (unless they are also a council manager of the authority), its monitoring officer, deputy monitoring officer, chief finance officer or deputy chief finance officer, except action described in Rule 3.4, may be taken by the Council or its Committees, Sub-Committees or any other person or body acting on its behalf, other than in accordance with a recommendation in a report made by the Designated Independent Person appointed under Regulation 7 of the Local Authorities (Standing Orders)(England) Regulations 2001.~~

~~3.4 The action mentioned in Rule 3.3 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action;~~

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~~and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.~~

~~3.5 Nothing in Rule 3.1 shall prevent a person from serving as a member of the Appeals Committee to consider an appeal by a member of staff against any decision relating to the taking of disciplinary action against that member of staff.~~

### Notes

~~The regulations provide:-~~

- ~~(a) In relation to allegations of misconduct by the Head of the Authority's Paid Service, the chief finance officer or the monitoring officer (the Officer) which the Council considers it needs to investigate, the authority and the officer shall agree to the appointment of a Designated Independent Person. In default of such agreement, the appointment shall be made by the Secretary of State.~~
- ~~(b) The Designated Independent Person may direct:-~~
  - ~~(i) that any suspension of the officer be terminated;~~
  - ~~(ii) the continuation of the suspension beyond two months;~~
  - ~~(iii) that the terms of the suspension shall be varied;~~
  - ~~(iv) that no steps towards disciplinary action or further disciplinary action be taken against the officer without the presence of the Designated Independent Person or his/her agreement before his/her report has been submitted.~~
- ~~(c) The Designated Independent Person may inspect any relevant documents which the Council has power to release, and may interview any officer in the course of the investigation. A report will be made on the investigation recommending any action and commenting on the evidence obtained and sent to the Council and the officer.~~
- ~~(d) The Designated Independent Person shall be paid by the Council together with the reimbursement of any costs incurred during the investigation.~~

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~~3.3 Disciplinary action against the Head of Paid Service, Monitoring Officer and Responsible Finance Officer Section 151 Officer~~

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~~3.4 The Head of Paid Service, Monitoring Officer and Responsible Finance Officer Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.~~

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~~4 Dismissal of Head of Paid Service, Monitoring Officer or Responsible Finance Chief Finance Officer~~

~~4.1 The Head of Paid Service, the Monitoring Officer and the Responsible Chief Finance Officer may not be dismissed by the Council unless the following procedure is complied with.~~

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~~shall only be dismissed by a resolution of Council, and Council must approve that dismissal before notice of dismissal is given to that person.~~

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~~4.2 The Council must appoint a panel for the purposes of advising the full Council on matters relating to the dismissal of the head of Paid Service, Responsible Finance Officer or Monitoring Officer. The panel must be a committee of the Council. The Council must appoint the panel at least 20 working days before the meeting of full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Monitoring Officer or Responsible Finance Officer.~~

~~Before the taking of a vote at the relevant meeting of the Council on whether or not to approve such a dismissal, the Council must take into account, in particular:~~

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~~(a) any advice, views or recommendations of the Panel;~~

~~(b) the conclusions of any investigation into the proposed dismissal; and~~

~~(c) any representations from the relevant officer.~~

~~4.3 The Council must invite relevant Independent Persons to be considered for appointment to the panel, with a view to appointing at least two Independent Persons to the panel. An Independent Person:~~

~~i) means an Independent Person who has been appointed under section 28(7) of the Localism Act 2007 (in relation to the Members' Code of Conduct); and~~

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ii) is an Independent person who has been appointed by the Council or where there are fewer than two persons appointed by the Council, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate. The Panel shall be constituted in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

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4.4 The Council must appoint to the panel such Independent Persons who have accepted an invitation issued in accordance with rule 4.3 in accordance with the following priority order:

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i) a relevant Independent Person who has been appointed by the Council and who is a local government elector;

ii) any other relevant Independent Person who has been appointed by the Council;

iii) a relevant Independent person who has been appointed by another authority or authorities;

4.5 The Council may appoint more than two relevant Independent Persons but is not required to do so.

4.6 before full Council takes a vote on whether or not to approve a dismissal of a Head of Paid Service, Monitoring Officer or responsible Finance Officer, the Council must take into account, in particular:

i) any advice, views or recommendations of the Panel;

ii) the conclusion of any investigation into the proposed dismissal;

iii) any representations from the officer in question.

4.7 Paragraphs 13 and 13A (England) and Appendix 5A of the Conditions of service Handbook of the Joint negotiating Committee for Local Authority Chief Executives (13<sup>th</sup> October 2016) give effect to these statutory requirements and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer, or responsible Finance Officer.

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Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegation that a member of the Authority or a Parish Council in its area has failed to comply with the applicable Code of Conduct

## 1 Receipt of Allegations

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

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

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

The Monitoring Officer may, if the complainant agrees, seek informal resolution of the complaint as an alternative to pursuing it through the formal arrangements in place for dealing with standards allegations.

The Monitoring Officer cannot be asked to determine the validity of a complaint in such a process, this can only be decided after following the procedures set out below.

1.3

## 2 Notification of Receipt of Allegations

2.1 All relevant allegations must be assessed by the Assessment Referrals Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant member to observe the Code of Conduct other than by reporting it to the Assessment Referrals Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he/she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a

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statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority. The Monitoring Officer will liaise with the Independent person as required.

- 2.2 Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:
- 2.2.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Referrals Sub-Committee at its next convenient meeting;
  - 2.2.2 notify the member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Assessment Referrals Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Referrals Assessment Sub-Committee, or in his/her absence the Chairman of the Standards Advisory Committee, and may then decide that no such advance notification shall be given;
  - 2.2.3 collect such information as is readily available and would assist the Assessment Referrals Sub-Committee in its function of assessing the allegation;
  - 2.2.4 seek local resolution of the matter where practicable, in accordance with Paragraph 3 below;
  - 2.2.5 place a report, including a copy of the allegation, such readily available information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Assessment Referrals Sub-Committee.

### 3 Local Resolution

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

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

### 4 Review of Decisions not to Investigate

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

4.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Referrals Sub-Committee in respect of the matter, the summary of the Assessment Referrals Sub-Committee and

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any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

**5 Local Investigation**

- 5.1 It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.
- 5.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the **Assessment Referrals** Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Authority, a senior officer of another authority or an appropriately experienced consultant.

# **KETTERING BOROUGH COUNCIL**

## **Whistleblowing Policy**

~~Approved at Executive on 12<sup>th</sup> April 2017~~

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## **1. Introduction**

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. The Public Interest Disclosure Act 1998 provides statutory protection to employees making disclosures, and the Council extends the principles of that Act to give elected members, partners, service users and citizens the same route to raise concerns.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 Individuals who raise their concerns about wrongdoing in the workplace are protected by the law and by this Policy. The law and this policy make it clear that employees can speak up about wrongdoing without fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to encourage and enable employees to raise those concerns within the Council rather than overlooking the problem or raising it outside the Council.
- 1.5 This policy applies to all employees, including casual workers and people involved in training programmes or work experience and those contractors working for the Council on Council premises, for example, agency staff, builders or drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises. It also covers elected members, and the public.
- 1.6 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some service areas within the Council.

## **2. Aims and Scope of the Policy**

### **2.1 The policy aims to:-**

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about wrongdoing or malpractice;
- provide avenues for you to raise those concerns and receive feedback on any action taken;



- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
  - ensure that all disclosures are treated fairly and consistently
  - Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that there has been wrongdoing and you are acting in the public interest.
- 2.2 There are separate procedures in place to enable you to lodge a grievance relating to your own employment. In such cases, you should use the relevant procedure, e.g. the grievance procedure or the code of practice for stopping harassment.
- 2.3 This Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns may be about:-
- conduct which is an offence or a breach of law
  - disclosures related to miscarriages of justice;
  - endangering of someone's health and safety, including risks to the public as well as other employees;
  - damage to the environment;
  - the unauthorised use of public funds;
  - possible fraud, corruption or financial irregularity (including breach of the Financial Procedure Rules);
  - covering up of any of the above or other wrongdoing
- 2.3 The concerns that you have may be about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council, if it makes you feel uncomfortable in terms of known standards or the standards you know the Council follows.
- 3. Safeguards**
- 3.1 Harassment or Victimisation**
- 3.2 The Council is committed to good practice and high standards and wants to be supportive of those who raise concerns, including employees. It is safe and acceptable ~~for employees or contractors~~ to speak up if you~~they~~ have a Whistleblowing concern.
- 3.3 The Council recognises that a decision to report a concern can be a difficult one to make. If what you are saying is true, and you reasonably believe the matter is in the public interest, you should have nothing to fear because you will be doing your duty to the Council and your employer and those for whom it is you~~are~~ providing a service.
- 3.4 The Council will not tolerate any harassment or victimisation (including informal

pressures) and will take appropriate action to protect you when you raise a concern.

3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by separate employment processes that you may be affected by.

3.6 The whistleblowing laws give you the right:-

- a) not to be penalised or put at any disadvantage as a result of making a protected disclosure;
- b) to be automatically treated as having been unfairly dismissed if the reason for your dismissal was that you made a protected disclosure;
- c) if you are dismissed for whistleblowing, you can go to an [Employment Tribunal](#) and if the tribunal decides that you have been unfairly dismissed, it will order that you are:-

- i. reinstated (get your job back)
- ii. paid compensation

#### 4. Confidentiality

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness or the Council may be required by law to break confidentiality.

#### 5. Anonymous Allegations

5.1 This Policy encourages you to put your name to your allegation whenever possible. Anonymous whistleblowers will not ordinarily be able to receive feedback and the action taken to look into the allegation could be limited.

5.2 Concerns expressed anonymously are (more difficult to investigate and therefore may be less credible.) but will be considered at the discretion of the Council.

5.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources
- The available evidence

#### 6. Untrue Allegations

6.1 If you make an allegation in the reasonable belief that it is substantially true, but it is not confirmed by the investigation, no action will be taken against you. If,

however, you make an allegation frivolously, maliciously or for personal gain, disciplinary or other action may be taken against you.

## 7. How to Raise a Concern

7.1 This will depend on the seriousness and sensitivity of the issues involved and who is thought of be involved in the malpractice. There is a whistle-blowing referral form on the Council's website, and this may be used by anyone who wishes to raise a concern under this policy.

Employee concerns should first be raised in accordance with the step 1, wherever possible:

### Step 1

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If you have a concern about malpractice, it is hoped you will be able to raise it first with your immediate manager or supervisor. This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the officers identified in Step 2 below. We advise that you make it clear that you are raising your concerns under the Council's whistleblowing arrangements – this will help managers respond in line with this policy. You may, at any stage, feel the necessity to take independent advice (see section 10).

### 7.2 Step 2

If you are not an employee, or if you feel unable to raise the matter with your manager, for whatever reason, you can raise the matter through completing the online referral form, or directly with:-

- the Monitoring Officer
- the Chief Finance Officer
- an Executive Director
- the Head of Resources
- the HR Manager
- the Senior Named Manager for Safeguarding

### 7.3 Step 3

If one or all of these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact the ~~Monitoring Officer or~~ the Managing Director.

7.4 Councillors have a specific role and so do not become involved in operational or whistleblowing matters, so you should not raise a whistleblowing concern with a councillor. Councillors may raise a whistleblowing concern themselves under this policy. If a councillor receives a whistleblowing complaint, he or she will pass it on to the Monitoring Officer to respond to and will uphold their duty of confidentiality. Section 10 of this policy provides information on who can be contacted outside of the Council so that a whistleblower's protected status is maintained.

## **8. How the Council will respond**

8.1 The Council will respond to your concerns..

8.2 The action taken will depend on the nature of the complaint. Where appropriate, the matters raised may:

- be investigated by management, internal audit, or other appropriate person.;
- be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry.

8.3 In order to protect individuals and those accused of wrongdoing initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example discrimination issues) will normally be referred for consideration under those procedures.

8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

8.5 Within ten working days of a concern being raised, the person to whom you have reported your concerns will write to you:

- acknowledging that the concern has been received;
- indicating how we propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place and if not, why not.

8.6 The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved

and the clarity of the information provided. If necessary, the Council will seek further information from you.

- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union representative or a colleague.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **9. The Responsible Officer**

- 9.1 The Monitoring Officer has overall responsibility for the maintenance and operation of the Policy. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

## **10. How the Matter can be taken further**

- 10.1 The Policy is intended to provide you with an avenue within the Council to raise concerns. It is hoped you will be satisfied with any action taken. If you are not satisfied or do not feel you can contact anyone within the Council and if you feel it is right to take the matter outside the Council possible contacts are set out in paragraph 10.3 below.
- 10.2 Before taking the matter outside the Council you may wish to take independent advice. You can contact the Advisory, Conciliation and Arbitration Service (ACAS), your trade union for more guidance or the Charity "Public Concern at Work (PCAW)", for more information and guidance. PCAW provides free confidential advice to those who witness wrongdoing or malpractice at work and are unsure whether to raise a concern. The contact details are:
- Whistle Blowing Advice Line Telephone 020 7404 6609
  - Advice Line Email [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)
  - Website [www.pcaw.co.uk](http://www.pcaw.co.uk)
- 10.3 While it is normally expected that an issue is raised within the Council first, if you do wish to take the matter outside the Council you may do so by informing the correct "prescribed person or body" for your issue. The Government

provides a list of the prescribed persons and bodies as well as guidance to help people identify the correct prescribed person or body. This is available on-line at: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2> Additionally, you may also raise the issue with:-

- Your trade union representative;
- The Council's external auditor;
- Your MP;
- Northamptonshire Safeguarding Team - (for concerns about unlawful acts relating to safeguarding issues)

10.4 If you disclose the information to anybody else you may lose your legal protections under the whistleblowing law. This will usually be the case if you go to the media with your concerns. If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

## **11. Roles and Responsibilities**

- 11.1 The responsibility for the operation of this policy rests with the Senior Management Team to ensure all staff are fully aware of its provisions. The Monitoring Officer must be advised of all referrals (but in a form which does not endanger confidentiality) so that an annual report to the Council's Standards Advisory Committee can be compiled.
- 11.2 Investigations should be undertaken by appropriate officers with expertise and will be dependent upon the issue raised. The appropriate Head of Service and Human Resources will jointly ensure that investigations are swift and effective and undertaken by someone with relevant skills and experience.
- 11.3 HR will act as the corporate services who maintain records of all referrals and subsequent investigations received by the Council.
- 11.4 HR will lead on allegations regarding serious misconduct of Council employees. The HR team will advise and support employees involved in the investigation process to ensure that such processes are fair and supportive to all those involved.
- 11.5 The Monitoring Officer will lead on allegations regarding misconduct of Councillors.
- 11.6 **Employees:** In all contracts of employment there is an implied understanding of mutual trust and confidence between the employer and employee. All employees, therefore, have a responsibility to raise concerns about work and they may do so in the manner described in this policy.

11.7. Line managers: Must create an open and fair culture within their area of responsibility and ensure that staff concerns are listened to and action taken where necessary. Line managers are responsible for ensuring that there is a safe environment for staff to raise their concerns and that there is no retribution as a result of someone raising their concerns.

11.8 Standards Advisory Committee: is responsible for the standards of behaviour across the Council/assuring the Council that the risks across the Council are being identified and managed. It is therefore responsible for ensuring that this policy is robust in identifying concerns and that the identified risks are addressed. It is also responsible for ensuring that the principles within this policy are upheld.

## 12 How the Policy will be monitored

12.1 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Council's Internal Audit Service will produce an annual report, which will identify any patterns of concern and assess the effectiveness of the policy.

12.2 This policy will be publicised on the Council's intranet, notice boards and on the Council's website.

12.3 Every new employee will be provided a copy of the policy when joining the Council as part of their induction pack and the policy will be brought to the attention of new employees through the induction process. The policy will also be brought to the attention of councillors through their induction.

12.4 Every contract will require the contractor to communicate the policy to their staff and adopt its provisions when working for the Council.

12.5 Training will be provided as part of the corporate training programme on how to raise and deal with disclosures.

12.6 An annual survey will be undertaken to gauge the awareness of the policy and individual whistleblowers will be asked more detailed questions about their perceptions of the policy in practice.

## 13. REVIEW

13.1 This procedure will be kept under review and any amendments will be subject to consultation with trade union representatives. It will be reviewed by the Council's Standards Committee on an annual basis.

## 14. CONTACT INFORMATION

**Monitoring Officer – Helen Edwards~~Sue Lyons~~**  
TEL: 01536 534209  
EMAIL: [helenedwards@kettering.gov.uk](mailto:helenedwards@kettering.gov.uk) ~~[suehyone@kettering.gov.uk](mailto:suehyone@kettering.gov.uk)~~

**Responsible Finance Officer – Mark Dickenson**  
TEL: 01536 534303  
EMAIL: [markdickenson@kettering.gov.uk](mailto:markdickenson@kettering.gov.uk)

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