



Derry City & Strabane
District Council

Comhairle
**Chathair Dhoire &
Cheantar an tSratha Báin**

Derry Cittie & Stràbane
Deistrick Coouncil

Derry City & Strabane District Council

CONSTITUTION

April 2015

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Part 1 - Summary, Explanation and Articles of the Constitution

Summary and Explanation

A council is required under section 2 of the Local Government Act (Northern Ireland) 2014 to prepare and keep up to date a constitution.

Derry City & Strabane District Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose. The Constitution is divided into a number of articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in the rules and protocols found at Parts 2 - 6 of the document.

In the event of a conflict in any respect between the Articles and the Annexes to the Constitution, a Council shall have regard to the provisions set out in the Articles.

How the Council operates

The Council is comprised of 40 Councillors who are elected every four years representing 7 District Electoral Areas (DEAs). Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. This is where Councillors decide the Council's overall policies and set the budget each year. The Council appoints Councillors to serve on the various committees and other bodies.

How decisions are made

The Council has a structure of committees on which Councillors serve. Meetings of the committees are generally open to the public except where 'confidential' or 'exempt' matters, as defined by the Local Government Act (Northern Ireland) 2014, are discussed.

The Council's staff

The Council has employees working for it (called 'officers') to give advice, implement decisions and manage and deliver the day-to-day delivery of its services. Officers agree to comply with the Code of Conduct for Local Government Employees and there is a protocol in place which governs the relationships between officers and members of the Council.

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Citizens' Rights

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

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of Derry City and Strabane District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community, in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of Council decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community;

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- (i) provide a single point of reference for the operating rules of the authority.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated 1.3 above.

The Council will monitor and evaluate the operation of the Constitution.

Article 2 - Members of the Council

2.1 Composition and Eligibility

The Council comprises 40 members, called Councillors. Councillors are elected by the voters of each district electoral area in accordance with a scheme drawn up by the Electoral Office of Northern Ireland. Where an individual ceases to be a Councillor, whether by resignation or through other circumstances, the vacancy on the council will be filled by the recognized filling casual vacancies procedure. The exact procedure followed depends on whether the individual ceasing to be a Councillor was an independent member or a member of a political party.

2.2 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2019. The term of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Duties of all Councillors

(a) Key roles

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process;
- (iii) deal with individual issues and act as an advocate for constituents in resolving particular concerns or grievances;

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- (iv) balance different interests identified within the district electoral area and represent the council area as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 3 of this Constitution.

2.4 Conduct

The public has the right to expect high standards of behaviour from Councillors and the manner in which they should conduct themselves in undertaking their professional duties. All Councillors are therefore obliged to sign the Northern Ireland Local Government Code of Conduct for Councillors, sign a declaration against terrorism and at all times to observe the Councillors' Code of Conduct set out in Part 4 of this Constitution and the Protocol on Employee and Councillor working relationships likewise set out in Part 4 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 5 of this Constitution.

Article 3 - Citizens and the Council

3.1 Citizens Rights

Residents and others who avail of the Council's services have the following rights in relation to the operation of the Council. Their rights to information and to attend meetings of the Council or its committees are explained in more detail in the Access to

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Information Rules in Part 3 of this Constitution:

(a) Information.

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private; and
- (ii) see reports and background papers, and any records of decisions made by the Council.

(b) Complaints.

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme; With the exception of complaints made under point (ii) below in relation to compliance with the Code of Conduct, all complaints should be referred through the Council's complaints scheme and this process should be exhausted before any complaint is referred on to a third party or
- (ii) the Northern Ireland Commissioner for Complaints in respect of an allegation that a Councillor (or former Councillor) has failed, or may have failed, to comply with the Northern Ireland Local Government Code of Conduct for Councillors. Guidance on making a complaint to the Northern Ireland Commissioner for Complaints is available on the website for the Office of the Northern Ireland Commissioner for Complaints

3.2 Citizens Responsibilities

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

Article 4 - The Council

4.1 Meanings

(a) Policy Framework.

The policy framework means the following plans and strategies including but not limited to:-

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- (i) Community Plan (under development)
- (ii) Local Development Plan (Under development)
- (iii) Corporate Plan
- (iv) Performance and Improvement Plan
- (v) Draft Equality Scheme
- (vi) Draft Disability Action Plan
- (vii) Good Relations Strategy
- (viii) Emergency Plan
- (ix) Corporate Health and Safety Policy

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council rate base, setting the district rate and decisions relating to the control of the Councils borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the Council

Derry City and Strabane District Council operates a committee structure. This means that the Council is the body ultimately responsible for the exercise of all functions. The Council delegates certain functions to committees and details are set out in Part 2 Responsibility for Functions.

4.3 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary/special meetings

and they will be conducted in accordance with the Council Standing Orders in Part 3 of this Constitution.

4.4 Responsibility for Functions

The Council will maintain the tables in Part 2 of this Constitution setting out the responsibilities for the Council's functions.

Article 5 - Chairing the Council

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5.1 Title of the Person Chairing Council meetings

The Chairperson of the Council will be the Mayor.

5.2 Role and Function of the Chairperson

The Mayor and, in their absence, the Deputy Mayor will have the following roles and functions:

- Carry out the roles and duties expected of the First Citizen of the Derry City and Strabane District Council area.
- Attend functions and events as the First Citizen and represent and promote the Council and the Derry City and Strabane District Council area.
- Represent and act as political figurehead and ambassador for the Council, ensuring that this role is carried out in a politically neutral way.
- Act as the political spokesperson for the Council.
- To witness, sign or seal all required Council documents.
- Chair meetings of the Council and conduct those meetings in an efficient manner, in accordance with Standing Orders (and any other relevant requirements) and with regard to the rights and interests of the community.

Article 6 – Decision-making structures

The Council operates a committee system as its permitted form of governance pursuant to section 19(1) of the Local Government Act 2014.

6.1 Role

The Council has appointed the following Committees:

- (i) Governance and Strategic Planning Committee
- (ii) Assurance Audit and Risk Committee
- (iii) Planning Committee
- (iv) Business and Culture Committee
- (v) Environment and Regeneration Committee
- (vi) Health and Community

The Terms of Reference of each committee is set out in Part 2 of this Constitution.

All committees have 14 members who are elected to the committees using the formula set out in Schedule 2 of the Local Government Act (Northern Ireland) 2014

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6.2 Form

The Council operates a six committee model.

6.3 Proceedings of the Committees

Proceedings of the committees shall take place in accordance with the Council's Standing Orders set out in Part 3 of this Constitution.

Article 7 – Overview and Scrutiny Arrangements

Scrutiny - General Comments

The responsibility for overview and scrutiny of the work undertaken by committees rests with the Council. In addition the Council's Assurance Audit and Risk committee is responsible for overseeing the council's audit arrangements, considering audit reports and the annual statement of accounts and making appropriate recommendations to the Council.

Where functions are delegated to officers the work of the officers is subject to the scrutiny of Council's committees as set out in the scheme of delegation at Part 2.

Article 8 - Joint Arrangements

8.1 Joint Arrangements

The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities. The Council may appoint Councillors to a joint committee and those members need not reflect the political composition of the council as a whole.

8.2 Access to Information

The Access to Information Rules in Part 3 of this Constitution apply.

8.3 Delegation to and from other Councils

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

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authority shall be reserved to the Council meeting.

8.4 Contracting Out

The Council may contract out to another body or organisation functions, provided there is no delegation of the Council's discretionary decision making. For example, Derry City & Strabane District Council will contract out operation of off-street parking to NCP and Transport NI.

Article 9 - Officers

Terminology

The use of the word "officers" means all employees and staff engaged by the Council to carry out its functions. This includes those engaged under short term or agency situations.

9.1 Management Structure

The management structure of the Council is set out in Part 6 of this Constitution.

9.2 Functions of the Clerk to the Council

The Chief Clerk to the Council is the Chief Executive Officer of the Council and is responsible for the management of the day to day operation of Council and the implementation of the decisions of the Council.

9.3 Functions of the Chief Financial Officer

The Chief Financial Officer to the Council is the officer appointed by the Council to that position and, under current arrangements, is the chief executive officer of the Council. The chief financial officer is responsible for the proper administration of the Council's financial affairs and for execution of all duties of the chief financial officer as set out in the Local Government Finance Act (Northern Ireland) 2011.

9.4 Duty to Provide Sufficient Resources to the Chief Financial Officer

The Council will provide the chief financial officer with such officers, accommodation and other resources as are, in its opinion, sufficient to allow their duties to be performed.

9.5 Conduct

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Officers will comply with the Officers' Code of Conduct and the Local Government Employee and Councillor Working Relationship Protocol set out in Part 4 of this Constitution.

Article 10 – Decision-making

10.1 Responsibility for Decision-making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2 of this Constitution.

10.2 Principles of Decision-making

All decisions of the Council will be made in accordance with the provisions of this Constitution, having due regard to legality, and the following principles:

- (a) **Selflessness** - Decisions shall be taken solely in terms of the public interest.
- (b) **Integrity** - Decisions will not be taken because of outside pressures
- (c) **Objectivity** - Decisions will be made on the basis of merit
- (d) **Accountability** - Decisions will be subject to appropriate scrutiny
- (e) **Openness** - Council will give reasons for decisions as appropriate
- (f) **Honesty** - Decisions will not be influenced by conflict of interest
- (g) **Leadership** - Council will support decisions by leadership and example
- (h) **Public Duty** - Decisions will uphold the law and the public trust placed in decision makers
- (i) **Equality** - Decisions will promote equality of opportunity
- (j) **Promoting Good Relations** - Decisions will promote a culture of respect, equity and trust and embrace diversity
- (k) **Respect** - Respect and consideration for others will be shown at all times
- (l) **Good Working Relationships** - Both between Councillors which should be effective, courteous and respectful; and between Councillors and officers which should be professional, courteous, respectful and impartial.

10.3 Decisions to be taken by a Qualified Majority

The decisions of a council that must be taken by a qualified majority, ie: by 80 per cent of the votes of the members present and voting, are set out in the Council Standing Orders [standing order no 20.3] in Part 3 of this Constitution.

10.4 Decision-making by the Council

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The Council meeting will follow the Council Standing Orders set out in Part 3 of this Constitution when considering any matter. Council decisions can be taken either by:

- (i) Full council
- (ii) A committee with delegated council powers
- (iii) An officer acting under delegated authority.

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

Council committees and sub-committees will follow those parts of the Council Standing Orders set out in Part 3 of this Constitution as apply to them.

Committee and Sub-Committee Decisions are referred to as Recommendations (unless under delegated powers as at point 10.4 (ii) above) which are then subject to Council agreement at the next meeting of the Council.

10.6 Reconsideration of Decisions

Decisions of the Council or a committee of the council will be subject to reconsideration if 15 per cent of the members of the Council present to the chief executive of the Council a requisition on either or both of the grounds specified in section 41(1) of the Local Government Act (Northern Ireland) 2014. These are:

- (a) that the decision was not arrived at after a proper consideration of the relevant facts and issues;
- (b) that the decision would disproportionately affect adversely any section of the inhabitants of the district.

The procedures to be followed in relation to a requisition for the reconsideration of a decision are set out in the Council Standing Orders [standing order no 21] in Part 3 of this Constitution.

Article 11 - Finance, Contracts and Legal Matters

11.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedures Rules set out in Part 3 of this Constitution.

11.2 Contracts

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Every contract made by the Council will comply with the Policy for the Purchase of Supplies and Services set out in Part 3 of this Constitution.

11.3 Legal Proceedings By and Against the Council

Council has delegated authority to deal with legal proceedings to the Lead Legal Services Officer as set out in the scheme of delegation at Part 2. Further the Chief Executive and Directors are authorised to instruct the Council's legal services department to take legal proceedings in regard to the recovery of debt(s), the enforcement of contractual rights, the service of notices, the prosecution of statutory offences and the instituting and defending of claims and proceedings.

Article 12 - Review and Revision of the Constitution

12.1 Duty to Keep the Constitution up to Date

This Constitution will be reviewed immediately following each annual meeting.

12.2 Changes to the Constitution

All proposed changes to the Articles of the Constitution will be debated and agreed by a majority of the Council.

Part 2 – Responsibility for Functions

Annex 1 – Principles of Delegation

1. Section 7 of the Local Government Act (Northern Ireland) 2014 provides that:

A Council may arrange for the discharge of any of its functions (except those incapable of delegation) to a committee, sub-committee or an officer, or by any other council. Powers which have been delegated may be exercised by the delegating body.

Section 7(3) of the Local Government Act (Northern Ireland) 2014 stipulates that 'A council's functions with respect to –

- a. Making a district rate under the Rates (Northern Ireland) Order 1977;
- b. Making a determination under section 13(1) of the Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined under that subsection;
- c. Borrowing money; and

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- d. Acquiring or disposing of land, may only be discharged by the council itself.

Under the Local Government Act (Northern Ireland) 2014 the Council has been given a general power of competence, enabling it to do anything that an individual might do. This is subject to certain qualifications.

Annex 2 – Responsibilities for Council Functions

Governance and Strategic Planning Committee

Terms of Reference

Governance

- To ensure that there is an effective constitution in place
- To ensure members receive appropriate support services, advice and training
- To review electoral arrangements and make recommendations to the Returning Officer
- To promote and maintain high standards of conduct by members and co-opted members of the Council

Strategic Policy and Planning

- To be responsible for ensuring the development, adoption and delivery of strategic plans including the Community Plan, the Corporate Plan and Capital Strategy and for monitoring overall progress of and linkages to the Local Development Plan
- To receive reports and updates from key regional strategic partners in relation to the delivery of the Community Plan and key cross border, national and international initiatives and provide strategic oversight
- To consider and review reports on north west, cross border, cross council and cross sectoral partnerships and collaborations and set the strategic direction for such initiatives
- To respond to regionally significant consultations, as appropriate
- To receive regular reports from Partnership Panel and respond to matters related central government relations

Strategic Policy and Planning –organisational improvement

- To be responsible for ensuring an integrated, outcome and customer focussed approach to the delivery of the services and supporting, promoting and developing an integrated approach to the social, environmental and economic infrastructure of the Council area.
- To be responsible for proposing the Council's revenue and capital budgets, long-term financial planning and funding strategy.

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- To be responsible for consulting on, developing, monitoring, reviewing and advising Council in respect of the Councils expenditure, and budget policy and financial regulations.
- To be responsible for developing and monitoring a strategic performance management and improvement regime/framework and KPIs, to support the delivery of the community and corporate plans and strategic outcomes.
- To consider and recommend, as appropriate, a corporate asset management strategy.
- To approve land and property transactions.
- To be responsible for monitoring and reviewing issues relating to community/customer engagement, external bodies, and area working.
- To be responsible for approving and oversight of corporate frameworks and policies including Health and Safety, Equality Scheme, customer care and engagement, procurement and other strategic plans and corporate policies, not the responsibility of another committee.
- To be responsible for approving, monitoring and reviewing the Councils human resource and organisational development strategies.
- To be responsible for ensuring the provision of effective support services to the Council e.g. corporate communications, legal services, democratic services.
- To be responsible for oversight of cross cutting projects, as necessary.
- To receive delegations, as appropriate and consider matters referred by Council.

Level of delegated authority: Recommendations subject to ratification by Council

Planning Committee

Terms of Reference

To exercise the functions, powers and duties of the Council in relation to planning and development control matters (but not the development of the Local Development Plan) as set out in the Planning Act (Northern Ireland) 2011 including:

- Consideration of applications made to the Council as the local planning authority.
- Approval of a scheme delegation in respect of planning applications.
- Approval of a planning enforcement strategy.

To receive delegations, as appropriate and consider matters referred by Council.

Level of delegated authority: Decisions of the Planning Committee will be taken under full delegated authority.

Assurance, Audit & Risk Committee

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Terms of Reference

The Assurance, Audit & Risk Committee will advise the Council on:

- The strategic processes for risk, control and governance and the Governance Statement;
- The accounting policies, the accounts, and the annual report of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the auditors;
- The planned activity and results of both internal and external audit;
- Adequacy of management responses to issues identified by audit activity, including external audit's management letter;
- Assurances relating to the management of risk and corporate governance requirements for the organisation;
- Anti-fraud policy, anti-bribery policy, gifts & hospitality policy, whistle-blowing processes, arrangements for special investigations and conflicts of interests;
- The arrangements in place regarding Corporate Health & Safety;
- Emergency Planning and Business Continuity arrangements.

The Assurance, Audit & Risk Committee will also periodically review its own effectiveness and report the results of that review to the Council.

The Committee will have responsibility for periodically reviewing performance and in particular:

- Monitoring the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, recommending any remedial action to be taken where it considers to be necessary and appropriate
- Reviewing performance of Council services/operations, in accordance with the Council's performance management framework/ regime.

Level of delegated authority: Recommendations subject to ratification by Council

Environment and Regeneration Committee

Terms of Reference

- To set the strategic direction for action to improve environmental and regeneration outcomes, in line with corporate and community plan objectives.
- To ensure citizens, communities and other stakeholders are fully involved in understanding the environmental and regeneration outcomes, identifying priorities and taking action to deliver improvement.

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- To be responsible for approval of a local development plan*
- To protect, conserve and revitalise the built and historic environment across the district driving physical, environmental and heritage led regeneration and strengthening economic competitiveness.
- To ensure efficient development control, building control and enforcement systems are in place.
- To ensure delivery of the Council's capital programme.
- To enhance environmental sustainability, community renewal and well-being, and environmental regeneration and be responsible for the approval of waste management strategies, policies and practices and public space and other initiatives.
- To commission reviews or policy development tasks in relation to any matters falling within the remit of this Committee.
- To be responsible for appointing members to sit on outside bodies and organisations, as appropriate.
- To receive delegations, as appropriate and consider matters referred by Council.

*key decisions / milestones in relation to the Local Development Plan will be brought to the full Council for consideration

Level of delegated authority: Recommendations subject to ratification by Council

Business and Culture Committee

Terms of Reference

- To set the strategic direction for action to improve business and culture outcomes, in line with corporate and community plan objectives.
- To ensure citizens, communities and other stakeholders are fully involved in understanding the business and culture outcomes, identifying priorities and taking action to deliver improvement.
- To ensure delivery of the Councils objectives in relation to job creation, business support, skills enhancement, inward investment and economic regeneration throughout Council area.
- To ensure promotion of entrepreneurship, enterprise, growth and prosperity across the city and region.
- To ensure that ICT and procurement services support and improve the business of Council and act as an economic enabler.
- To be responsible for maximising the regenerative, cultural and economic benefit of tourism and the promotion and marketing of the city and region.
- To be responsible for maximising the contribution of arts and culture across the city and district as a primary driver of social, cultural and economic regeneration.

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- To be responsible for ensuring effective corporate communications and public relations processes are in place.
- To commission reviews or policy development tasks in relation to any matters falling within the remit of this Committee.
- To be responsible for appointing members to sit on outside bodies and organisations, as appropriate.
- To receive delegations, as appropriate and consider matters referred by Council.

Level of delegated authority: Recommendations subject to ratification by Council

Health and Community Committee

Terms of Reference

- To set the strategic direction for action to improve health and community outcomes, in line with corporate and community plan objectives.
- To ensure citizens, communities and other stakeholders are fully involved in understanding the health and community outcomes, identifying priorities and taking action to deliver improvement.
- To ensure that health and social well-being are at the core of service delivery and community development and that there is an integrated approach to environmental health, health promotion and protection.
- To be responsible for the development of more cohesive, safe, confident, engaged and sustainable communities and tackling area based disadvantage and reducing inequalities.
- To ensure the provision of integrated, citizen focused statutory and community services and facilities and the promotion of good relations.
- To be responsible for ensuring increased participation and engagement in leisure and sports activities.
- To ensure that social and community regeneration and well-being contribute to economic and environmental well-being and regeneration.
- To commission reviews or policy development tasks in relation to any matters falling within the remit of this Committee.
- To be responsible for appointing members to sit on outside bodies and organisations, as appropriate.
- To receive delegations, as appropriate and consider matters referred by Council.

Level of delegated authority: Recommendations subject to ratification by Council

Annex 3 – Joint Arrangements

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The Local Government Act (Northern Ireland) 2014 empowers councils to put in place joint arrangements. At this point in time, Derry City & Strabane District Council has no formal joint arrangements in place, however, there are a number that may be established in due course and this constitution will be updated accordingly.

Annex 4 – Scheme of Delegation

The following documents refer:

- Derry City & Strabane District Council Scheme of Delegation (see below)
- Scheme of Delegation – Planning Function (see below)

SCHEME OF DELEGATION

Derry City and Strabane District Council ('the Council')

1. General

1.1 Powers

This Scheme of Delegation is made pursuant to the Local Government Act (Northern Ireland) 2014 Section 7 and by reference to the Local Government (Northern Ireland) Act 2014 Section 2 and the Local Government Act 2000 Section 14 and all other enabling powers and the proper officer appointments are made under the relevant provisions mentioned in Paragraph 5.

1.2 Preliminary

1.2.1 There shall be delegated to the officers named in Paragraphs 2 to 7 inclusive:

1.2.1.1 in respect of Paragraphs 2 to 4, the functions listed in Paragraphs 2 to 4 subject to consultation as set out in Paragraphs 2 to 4 and the provisions of this Paragraph 1;

1.2.1.2 in respect of the appointments as proper officer in Paragraph 5, the functions listed in Paragraph 5 subject to the provisions of this Paragraph 1; and

1.2.1.3 in respect of Paragraphs 6 and 7, the authority to appear in court and to enter land or premises.

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- 1.2.2 Where the Council, a committee or a sub-committee gives authority for the implementation of any duty, the officer designated shall be entitled to take all necessary steps for the completion of such duty.
- 1.2.3 Where authority is given, but without naming an officer, such authority shall be deemed as authorising the Chief Executive or the appropriate Senior Officer to take such steps.
- 1.2.4 The Chief Executive may exercise the powers delegated to any Senior Officer and to any Proper Officer except in relation to those functions allocated to the Chief Financial Officer (within the meaning of the Local Government Finance Act (Northern Ireland) 2011 Section 1 (unless he or she is the Chief Financial Officer appointed for the purposes of that Act).
- 1.2.5 The Chief Executive or such other officer as Council may from time to time determine is the Head of the Paid Service.
- 1.2.6 The Chief Executive or such other officer as Council may determine is the Chief Financial Officer.
- 1.2.7 The Senior Officers for the purpose of this Scheme of Delegation are: The Director of Environment and Regeneration, The Director of Business and Culture, The Director of Health and Community.
- 1.2.8 In the event that a Senior Officer's post ceases to exist or his or her responsibilities are transferred to another Senior Officer (as the case may be), temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.
- 1.2.9 Any reference to an Act of Parliament includes reference to any subordinate legislation made under it and to any modification and/or replacement of it or of such subordinate legislation.
- 1.2.10 This Scheme of Delegation shall come into effect on *1st. April, 2015*.
- 1.2.11 Nothing in this Scheme of Delegation shall prejudice the validity of any actions taken by the officers before *1st. April, 2015* under any previous scheme.

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1.3 Absence of Chief Executive

The Chief Executive may appoint one or more Senior Officer to exercise his or her functions owing to absence or illness and such deputy is or such deputies are authorised to exercise the functions of the Chief Executive pursuant to the Constitution, Financial Regulations and this Scheme of Delegation except in relation to those functions allocated to Chief Financial Officer (within the meaning of the Local Government Finance Act (Northern Ireland) 1988 Sections 1 (unless the Chief Executive is the Chief Financial Officer for the purposes of that Act).

1.4 General principles

Where decisions are taken by officers under delegated powers the following principles and conditions shall apply:

1.4.1 Powers shall be exercised in accordance with the constitution, and Standing Orders of the Council.

1.4.2 The officer exercising such powers shall give effect to any resolution of the Council, a committee or the Executive, upon any matter of principle or policy in relation to the functions concerned.

1.4.3 Where an officer is authorised to take decisions, action to implement such decisions shall be taken in the name of (but not necessarily personally by) that officer, but where the officer is the Chief Executive or a Senior Officer he or she may authorise any other officer, or an officer of another body referred to in and by virtue of an agreement under the Local Government Act (Northern Ireland) 1972 Sections 19, 104 and 105, or Part 4 and Sections 24 -26 of the Local Government Act (Northern Ireland) 2014, specifically or generally to take such action, either in the name of the Chief Executive or the Senior Officer (as the case may be) or the sub-delegate's own name. Such sub-delegation must be evidenced in writing, and a copy of the written authority must be sent to the Chief Executive.

1.4.4 The officer dealing with a matter shall arrange any inter-departmental or member-level consultation that shall be required. If inter-departmental agreement is not reached at Senior Officer level, the matter shall be referred to the Chief Executive for consideration.

1.4.5 In any case where the officer exercising the power considers that a new departure in policy is likely to be involved, or if the implications are such that the officer considers that such course is necessary, the matter shall be referred to the Chief Executive for consideration before reference to the appropriate body.

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- 1.4.6 Key decisions within the meaning of the Local Government (Northern Ireland) Act 2014 and Council's Standing Orders taken by officers shall, where indicated, be reported to the Chief Executive, who shall record the action taken in a register which shall be available for inspection by members and the public.
- 1.4.7 Any officer may decide to seek a committee's or Cabinet member's authority rather than to exercise delegated authority in any matter.
- 1.4.8 The exercise of delegated authority shall be subject to there being appropriate and adequate budgetary provision, both in the year of exercise and future years. Where an officer ('the instructing officer') requests another officer to exercise powers delegated to the other officer, the instructing officer shall ensure that appropriate and adequate budgetary provision has been made.
- 1.4.9 The exercise of delegated authority shall be documented in the prescribed form (including the use of any electronic database) and copies sent to the (Head of Committee Section), Director of Finance and, in the case of personnel matters, the Head of Human Resources.
- 1.4.10 Any decision which may attract to the Council an unusual or onerous legal liability shall be taken in consultation with the Senior Solicitor.
- 1.4.11 Any decision which has financial implications shall be taken in consultation with the Head of Finance or his or her deputy.
- 1.4.12 The exercise of functions delegated under the Scheme of Delegation shall have regard to all relevant considerations and shall not take into account irrelevant matters.

2. Powers delegated to the Chief Executive and all Senior Officers

2.1 General administration

- 2.1.1 Taking all necessary action for the effective day-to-day management, administration and supervision of the department, services and land and property assets for which the Chief Officer is responsible.
- 2.1.2 Implementing those actions, programmes and initiatives which the Chief Officer is responsible for, as set out in agreed Council plans (refer to 1.4) subject to regular reporting to the relevant Committee and to the expenditure being within agreed estimates.

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- 2.1.3 Engaging consultancy assistance, where required, subject to relevant Council policies and regular reporting to the relevant Committee on the use of this delegated authority.
- 2.1.4 Carrying out surveys and other research in connection with the functions of the department, subject to Council policies on procurement.
- 2.1.5 Responding to consultation documents on matters which are routine or which do not have significant policy or financial implications for the Council.
- 2.1.6 Making initial applications for grant funding from external bodies where there is not sufficient time for Council approval to be obtained provided that there is no commitment for Council funding and that any subsequent decision to proceed remains subject to Committee approval.
- 2.1.7 Developing and implementing specific promotions, schemes and events (including the provision of prizes) in line with any relevant Council policies.
- 2.1.8 Instructing the Senior Solicitor to take legal proceedings in regard to the recovery of debt(s), the enforcement of contractual rights, the service of notices, the prosecution of statutory offences and the instituting and defending of claims and proceedings affecting the Chief Officer's department.
- 2.1.9 Instructing the Senior Solicitor to obtain a valuation of any land or land and property asset from Land and Property Services or any other valuation agency appointed by Council to act in their place.
- 2.2 Finance
 - 2.2.1 Paying the cost of an employee's professional fees where it is legally necessary for the employee to perform their duties as outlined in the employee's job description.
 - 2.2.2 Writing off any loss of money (including bad debts) and loss of stores and obsolete equipment and materials in accordance with the limits outlined in the Financial Regulations.
 - 2.2.3 Authorising the virement of budgets (the transfer of budget from one budget heading to another) in accordance with the limits outlined in the Financial Regulations.

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- 2.2.4 Approving payments to employees for damage to personal apparel or other items up to a limit of £500 where the damage has occurred in the course of the duties of that employee.
- 2.2.5 Authorising any employees to attend training and development events, technical visits and courses, including conferences, exhibitions, workshops and seminars and meetings of appropriate professional associations, subject to any relevant Council policies.
- 2.2.6 Authorising appropriate payments to employees in their department in respect of telephone travel and subsistence allowances standby and call out allowances overtime additional duties costs of study courses and removal and relocation expenses in accordance with Council policies.
- 2.2.7 Granting of small scale hospitality pursuant to Section 37 of the Local Government Act (Northern Ireland) 1972 subject to the financial limits set.
- 2.3 Emergencies and cases of urgency
 - 2.3.1 Taking such measures, including incurring expenditure, as may be required in emergency situations or cases of urgency, subject to advising the appropriate Chair and reporting to the appropriate Committee as soon as possible.
 - 2.3.2 Where such measures involve the Council incurring expenditure of an amount that is likely to result in the Committee's expenditure exceeding its approved estimate, then the Senior Officer should advise the Head of Finance and submit a report to the relevant Committee as soon as possible. The Head of Finance should inform the relevant Committee accordingly as soon as possible.
- 2.4 Management of Land Et Property Assets
 - 2.4.1 The exercise of the following delegated powers is in relation to the management of the land and property assets (e.g. leisure centres, community centres, parks and open spaces). The use of these delegated powers is subject to there being no disposal, holding or acquisition of land involved.
 - 2.4.2 Permitting the use of such assets by Council departments and services and outside bodies in accordance with any relevant Council policies.
 - 2.4.3 Varying the opening times of, or restricting access to, or closing such assets in special circumstances (for example to permit maintenance or other operational reasons).

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- 2.4.4 Approving the holding of non-controversial events, conferences and promotions in such assets and applying any necessary hire and/or admission charges or discounted pricing in line with Council policies.
- 2.4.5 Granting temporary licences for the use of Council assets for the purpose of events/car parking or other temporary uses on appropriate commercial terms, subject to consultation with the Senior Solicitor and the Director of Environment and Regeneration.
- 2.5 Human Resources
 - 2.5.1 The exercise of the following delegated powers is subject to consultation with the Head of Human Resources to ensure that decisions are taken in accordance with any relevant Council policies and that, where necessary, the appropriate Committee is kept fully advised by way of regular reporting. Staff management changes that result in an increase in the approved staffing establishment and staffing budget for a department and/or which effect any changes to posts at third tier and above Head of Service level will be subject to approval by the Governance Committee.
 - 2.5.2 Undertaking service reviews, including the deletion of permanent posts and the creation of new permanent posts, provided that there is no increase in the Department's approved staffing establishment and staffing budget for permanent posts.
 - 2.5.3 Creating new temporary posts provided that there is no increase in the Department's approved staffing establishment and staffing budget.
 - 2.5.4 Approving the use of agency resources in accordance with all relevant Council policies.
 - 2.5.5 Appointing successful applicants to posts in line with the employment policies and practices adopted by the Council.
 - 2.5.6 Agreeing to a one month overlap period for the appointment of employees, provided that this can be accommodated within budget.
 - 2.5.7 Determining the grading of any post below the level of Head of Service in accordance with all relevant Council policies.
 - 2.5.8 Approving the payment of honoraria to an employee in accordance with all relevant Council policies.

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- 2.5.9 Allowing or disallowing all requests for leave, of any kind, in accordance with the Schemes of Conditions of Service adopted by the Council.
- 2.5.10 Granting paid special leave to an employee in exceptional circumstances, and approving other paid or unpaid leave of absence subject to all relevant Council policies.
- 2.5.11 Taking action, including terminating or varying contracts of employment in respect of employees in the relevant department in accordance with all relevant Council policies following consultation with the Head of Human Resource.
- 2.6 Procurement
 - 2.6.1 The exercise of the following delegated powers is subject to consultation with the Procurement Manager to ensure that decisions are taken in accordance with any relevant Council policies, including Standing Orders and the Financial Regulations and Council's Procurement Policy, and that where necessary, the appropriate Committee is kept fully advised by way of regular reporting.
 - 2.6.2 Procuring goods, services or works under the statutory limit of £30,000 where the procurement
 - (1) Is in relation to matters of a routine or recurring nature; or
 - (2) Is in relation to the operational requirements of the Department
 - (3) Is contained within an agreed Council Plan.
 - 2.6.3 Authorising the completion of a contract for the procurement of goods, services or works over the statutory limit of £30,000, following a tender exercise, where the Council has approved the invitation to tender and the award of the contract is made in accordance with the predetermined award criteria.
 - 2.6.4 Approving the changing of sureties by contractors provided the Council's interests remain fully protected.
 - 2.6.5 Determining a contract awarded by the Council where the contractor is in breach of contract and unable or unwilling to proceed therewith, subject to prior consultation with the Chairman of the relevant Committee and the Senior Solicitor.
 - 2.6.6 Taking action to ensure contract compliance and negotiating claims and contract variations.

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- 2.6.7 Signing maintenance agreements subsequent to capital acquisitions agreed by the Council subject to consultation with the Senior Solicitor.
- 2.6.8 Making arrangements for the supply of goods and services pursuant to Section 105 of the Local Government Act (Northern Ireland) 1972.

3. Powers delegated to Chief Executive

The exercise of the following functions is delegated to the Chief Executive:

- 3.1.1 Settling, in consultation with the Senior Solicitor, any points requiring interpretation or clarification on the practical application of this Scheme.
- 3.1.2 Signing legal documents on behalf of the Council and authorising the affixing of the Corporate Seal thereto, as required.
- 3.1.3 Invoking the Council's Emergency Plan and making whatever arrangements are necessary for action thereunder.
- 3.1.4 Confirming the decisions of any Categorisation Panels or Joint Appeals Boards established under any of the Council's procedures.
- 3.1.5 Making arrangements for the admission of the public and press to Council meetings.
- 3.1.6 Approving, in consultation with the relevant Committee Chairman, the attendance of the Chairman and Deputy Chairman (or nominees) of any of the Standing Committees at any conference or seminar held in Northern Ireland where there is insufficient time for Committee approval to be obtained.
- 3.1.7 Approving the attendance of the Mayor and Deputy Mayor at events which take place on an annual basis or on a visit following an invitation from, or on behalf of, a civic dignitary of another city.
- 3.1.8 Acting as the Deputy Returning Officer for local elections in the Derry City and Strabane District Council area with responsibility for making the arrangements for Council elections in that District.

4. Powers delegated to Senior officers and specific Heads of Service.

- 4.1 Powers Delegated to the Director of Health and Community.

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The functions listed in this paragraph 4.1 below in relation to the legislation set out in Annex A for which the Council has responsibility:

- 4.1.1 enforcing all regulations, orders and bye-laws made under the said legislation;
- 4.1.2 issuing and serving certificates and notices;
- 4.1.3 granting, withdrawing, suspending and refusing authorisations, approvals and consents, and rejecting plans;
- 4.1.4 exercising any powers in relation to the issue (but not refusal) of permits and licences;
- 4.1.5 effecting (but not cancelling or refusing to effect) registrations and maintaining statutory registers;
- 4.1.6 in consultation with Council's legal services, instituting legal proceedings and making legal applications on behalf of the Council;
- 4.1.7 authorising individual officers for the purpose of exercising any statutory power;
- 4.1.8 dispensing with or relaxing, or refusing to dispense with or relax Building Regulations and Inviting representations thereon, and extending prescribed periods;
- 4.1.9 executing works in default of compliance with any notice and in an emergency where empowered by statute, and recovering Costs;
- 4.1.10 generally enforcing all other statutory powers conferred on the Council.

4.2 Powers Delegated to the Director of Business and Culture

- 4.2.1 Awarding grant funding under criteria which have already been approved by council.

4.3 Powers Delegated to the Director of Environment and Regeneration

The functions listed in this paragraph 4.3 below in relation to the legislation set out in Annex B for which the Council has responsibility:

- 4.3.1 The exercise of any powers in relation to the issue of (but not) refusal of permits and licenses where no objection to the issue of such permit or licence has been received.
- 4.3.2 enforcing all regulations, orders and bye-laws made under the said legislation;

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- 4.3.3 issuing and serving certificates and notices;
 - 4.3.4 granting, withdrawing, suspending and refusing authorisations, approvals and consents, and rejecting plans;
 - 4.3.5 effecting (but not cancelling or refusing to effect) registrations and maintaining statutory registers;
 - 4.3.6 in consultation with Council's legal services, instituting legal proceedings and making legal applications on behalf of the Council;
 - 4.3.7 authorising individual officers for the purpose of exercising any statutory power;
 - 4.3.8 dispensing with or relaxing, or refusing to dispense with or relax Building Regulations and Inviting representations thereon, and extending prescribed periods;
 - 4.3.9 executing works in default of compliance with any notice and in an emergency where empowered by statute, and recovering Costs;
 - 4.3.10 generally enforcing all other statutory powers conferred on the Council.
- 4.4 Powers Delegated to the Chief Financial Officer
- 4.4.1 Signing the unaudited accounts of Council in accordance with Local Government Accounts and Audit Regulations.
- 4.5 Powers Delegated to the Senior Solicitor
- 4.5.1 Defending all claims made, or legal proceedings instituted against the Council, including the power to compromise or settle same as appears necessary or desirable in the best interests of the Council, save that where claims or proceedings are of an unusual or controversial nature, he/she shall report the circumstances thereof to the relevant Committee.
 - 4.5.2 Instituting legal proceedings on behalf of the Council, acting on the instructions of Council or the relevant Senior Officer.
 - 4.5.3 Briefing Counsel and taking Counsel's opinion.
 - 4.5.4 Engaging outside legal assistance as required.

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- 4.5.5 Engaging such expert witnesses or commissioning such expert reports as may be required.
- 4.6 Head of Strategic Finance and Funding
 - 4.6.1 Making payments in line with Council's payment regulations.
- 4.7 Head of Human Resources
 - 4.7.1 Applying national agreements and relevant Circulars from any relevant officially recognized body which allows no discretion to the Council
 - 4.7.2 Appointing and engaging consultants to carry out investigations, provide training or any other independent advice or support including legal advice in line with procurement guidelines.
 - 4.7.3 Representing Council in respect of specific employment issues at external bodies and tribunals.

5. Officers authorised to represent the Council in court and in other hearings

Every solicitor, barrister or legal executive employed or engaged by the Council shall be authorised to appear on its behalf before any court, tribunal or other hearing to the extent that they have rights of audience, and to exercise the powers given by the relevant professional bodies.

6. Authorisation to enter land or premises

- 6.1 General
 - 6.1.1 This authorisation authorises those officers named in Paragraphs 6.2–6.5 to enter land or premises for or in connection with their duties and pursuant to the functions mentioned.
 - 6.1.2 The authority to enter land or premises shall be exercisable subject to any statutory constraints and Paragraph 1.
 - 6.1.3 A reference to any Act shall include reference to any amendment or re-enactment and any subordinate legislation.
 - 6.1.4 'Senior Officer' shall have the same meaning as in Paragraph 1.

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- 6.1.5 In the event that a post ceases to exist or the name of the post is changed or the responsibilities of that post are transferred to another post (temporarily or permanently), the authority given by this authorisation shall be exercisable by the officer in whose area of responsibility the right to enter falls to be exercised.
- 6.1.6 The right to enter given by Paragraph 6 shall extend to the exercise of the power to make inspections, to provide samples and to examine and seize goods.
- 6.1.7 A person authorised to enter land may take with him or her such other persons and equipment as may be necessary.
- 6.1.8 This authorisation entitles a person authorised to enter land to seek a warrant to enter.
- 6.1.9 The authorisation of an officer to enter land shall be taken as the appointment of that officer among other things for that purpose.
- 6.2 All purposes
The following are authorised to enter land or premises for any purposes for which the Council is empowered to authorise entry:
Chief Executive
Senior Solicitor
Emergency Planning Officer.
- 6.3 Environmental Health, etc
The following are authorised to enter land or premises for the following functions:
The Director of Health and Community or any officer authorised by the Director of Health and Community for the purposes of any of the functions detailed in paragraph 4.1 above.
- 6.4 Planning
The following are authorised to enter land or premises pursuant to the following powers:
The Senior Planning Officer or any officer authorised by the Senior Planning Officer for the purposes of the powers granted by the legislation in annex C or any subordinate legislation.

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6.5 Building Control

The following are authorised to enter land or premises pursuant to the following power:

The Director of Environment and Regeneration or any Officer authorised by the Director of Environment and Regeneration for the purposes of any of the powers contained in annex B as required to carry out Council's building control function.

6.6 Environment and Regeneration

The Director of Environment and Regeneration or any Officer authorised by the Director of Environment and Regeneration

Annex A

Anti-Social Behaviour (Northern Ireland) Order 2004
Animal By-Products Regulations (NI) 2003
Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985
Betting and Gaming (Northern Ireland) Order 2004
Caravans Act (Northern Ireland) 1963
Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991
Clean Air (Northern Ireland) Order 1981
Clean Neighbourhoods and Environment Act (NI) 2011
Cinemas (Northern Ireland) Order 1991
Control of Greyhounds etc. Act (Northern Ireland) 1950
Construction Products Regulations 1991
Consumer Protection Act 1987
Dangerous Dogs Compensation and Exemption Schemes Order (Northern Ireland) 1991
Dangerous Substances and Explosive Atmospheres Regulations (Northern Ireland) 2003
Dangerous Dogs (Northern Ireland) Order 1991
Dogs (Northern Ireland) Order 1983, as amended
Dogs (Guard Dog Kennels) Regulations (Northern Ireland) 2013
Environment (Northern Ireland) Order 2002
European Communities Act 1972
Explosives (Northern Ireland) Order 2002
Food and Environment Protection Act 1985
Food (Northern Ireland) Order 1989
Food Hygiene Regulations (NI) 2006
Food Safety (Northern Ireland) Order 1991

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General Product Safety Regulations 2005
Hairdressers Act (NI) 1939
Health and Safety at Work (Northern Ireland) Order 1978
Health and Personal Social Services (NI) Order 1978
High Hedges Act (NI) 2011
Housing of the Working Classes Act 1885
Housing (Amendment) Act (Northern Ireland) 2011
Housing (Northern Ireland) Order 2003
Housing (Northern Ireland) Order 1992
Licensing (Northern Ireland) Order 1996
Litter (Northern Ireland) Order 1994 - Excluding Article 10
Local Government Act (Northern Ireland) 1972
Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992
Londonderry Corporation Act 1918
Londonderry Corporation Act 1931
Petroleum (Regulation) Acts (Northern Ireland) 1929 and 1937
Poisons (Northern Ireland) Order 1976
Pollution Control and Local Government (Northern Ireland) Order 1978
Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012
Private Tenancies (NI) Order 2006
Public Health Acts 1878 to 1971
Public Health and Local Government (Miscellaneous Provisions) Act 1949
Rats and Mice Destruction Act 1919
Registration of Clubs (Northern Ireland) Order 1996
Regulation of Investigatory Powers Act 2000
Rent (Northern Ireland) Order 1978
Shops (Sunday Trading etc) (Northern Ireland) Order 1997
Smoking (NI) Order 2006
Safety of Sports Grounds (Northern Ireland) Order 2006
Street Trading Act (Northern Ireland) 2001
Sunbeds Act (Northern Ireland) 2011
The Controls on Ozone-Depleting Substances Regulations (Northern Ireland) 2011
The Ozone-Depleting Substances (Qualifications) Regulations (Northern Ireland) 2011
The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009
The Official Feed & Food Control Regulations (NI) 2009 (as amended)
The Transmissible Spongiform Encephalopathies Regulations (NI) 2006
The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008
The Roads (Northern Ireland) Order 1993
The Road Traffic Regulation (Northern Ireland) Order 1997

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Tobacco Advertising and Promotion Act 2002
Town Improvement Clauses Act 1847
Noise Act 1996
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005
Waste and Contaminated Land (NI) Order 1997
Welfare of Animals Act (NI) 2011
Welfare of Animals (Dog Breeding Establishments and Miscellaneous Amendments) Regulations (Northern Ireland) 2013
Welfare Services Act (Northern Ireland) 1971
Marriage Regulations (NI) 2003
Civil Partnerships Regulation (NI) 2005

Annex B

Building Regulations (Northern Ireland) Order 1979
Building Regulations (Northern Ireland) 1990
Building (Prescribed Fees) Regulations (Northern Ireland) 1997
Clean Neighbourhoods and Environment Act (NI) 2011
Dogs (Northern Ireland) Order 1983, as amended
Litter (Northern Ireland) Order 1994 - Excluding Article 10
Local Government Act (Northern Ireland) 1972
Londonderry Corporation Act 1918
Londonderry Corporation Act 1931
Public Health Acts 1878 to 1971
Regulation of Investigatory Powers Act 2000
Safety of Sports Grounds (Northern Ireland) Order 2006
The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008
Town Improvement Clauses Act 1847
The Roads (Northern Ireland) Order 1993
The Road Traffic Regulation (Northern Ireland) Order 1997

Annex C

Planning Act (NI) 2011
Planning (Northern Ireland) Order 1991
Planning (Compensation, etc.) Act (Northern Ireland) 2001
The Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990
The Planning (Amendment) (Northern Ireland) Order 1982
The Land Compensation (Northern Ireland) Order 1982
The Planning Blight (Compensation) (Northern Ireland) Order 1981

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The Enterprise Zones (Northern Ireland) Order 1981
The Private Streets (Northern Ireland) Order 1980
The Planning (Amendment) (Northern Ireland) Order 1978
The Land Acquisition and Compensation (Northern Ireland) Order 1973
The Planning (Northern Ireland) Order 1972
Planning and Land Compensation Act (Northern Ireland) 1971
The Land Development Values (Compensation) Act (Northern Ireland) 1965
Lands Tribunal and Compensation Act (Northern Ireland) 1964
Caravans Act (Northern Ireland) 1963

Planning Scheme of Delegation

Scheme of Delegation: Delegation of power to determine Planning Applications and Consents and Enforcement

The scheme of delegation for the determination of planning applications was agreed by the Derry City and Strabane District Council at its meeting of 21 January 2015 following approval by the Department of the Environment for Northern Ireland on 1 April 2015. The approval is in accordance with Section 31 of The Planning Act (NI) 2011. The scheme of delegation takes effect from 1 April 2015.

Part A – Mandatory applications for determination by the Planning Committee:

Statutory requirements under the Planning Act 2011 require that certain types of application must be determined by the Planning Committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development as defined in the Planning (Development Management (Regulations) NI 2015 ;
- An application for planning permission where the application is made by the Council or an elected member of the Council, or
- The application relates to land in which the Council has an interest.

Part B – Delegated Applications:

Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate to an officer of the Council. Derry City and Strabane District Council thereby authorises the appointed person is the Head of Planning within the Council and those Senior Officers nominated by this Officer.

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To determine all Local development applications as defined in the Planning (Development Management (Regulations) NI 2015) whether for approval or refusal with the exception of:

- Applications attracting more than five separate individual objections or a petition with five or more signatures (i.e. this excludes five letters of objection from a single person/organisation/household and objections must be based on material planning matters).
- Applications which are significant departures from the Development Plan and which are recommended for approval.
- Applications submitted by members of council staff at Planning Officer grade and Senior Council staff at Heads of Service grade and above.
- Applications which the Chair or Planning Committee Councillors considers should be referred to Committee for determination, a sound planning reason must be given for such a referral.
- Applications which the Head of Planning considers that the proposal merits consideration by the Committee.
- When the Council is required to enter into a legal agreement.
- All Applications, outline, full or reserved matters for 5 housing units and more in all locations.
- Any applications having significant cross border environmental and economic impacts.

Part C – Enforcement and Determination of other matters

As well as determining planning applications, the Council will also have to administer the enforcement of planning and the processing of other planning consents. **Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014** allows a council committee to delegate to an officer of the council. The committee has endorsed this approach on 21 January 2015.

The Planning Committee shall be required to consider and determine: -

- The making of a Tree Preservation Order.
- Confirmation of a Provisional Tree Preservation Order.
- The formal reporting of planning enforcement matters to the Public.
- The commencement of legal proceedings in a magistrates or other court.
- The Designation, Variation or Cancellation of a Conservation Area
- Applications to Courts for Injunctions
- The making of a Completion Notice
- Proposals involving the Revocation or Modification of a planning permission (does not relate to Minor amendment process)
- Proposals requiring Discontinuance of the use or alteration or removal of buildings.

The following matters are delegated to the appointed officer:

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- The serving of a provisional Tree Preservation Order.
- The serving or affixing of a Building Preservation Notice - temporary listing
- The serving of a Completion Notice
- The making of an order to revoke or modify a planning permission
- The making of an order requiring discontinuance of the use or alteration or removal of buildings
- The investigation of formal planning enforcement proceedings through the issuing of enforcement notices, listed building Enforcement Notices, Breach of Condition Notices, Stop Notices, Temporary Stop Notices, Fixed penalty notices, and Planning Contravention Notices.

The following applications subject to criteria as set out in Part B;

- Determination of any application for a Certificate of Lawful use or Development.
- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.
- Determination of any application for Advertisement Consent.
- Determination of any application for carry out works to trees.
- Determination of any Hazardous Substance Consent
- Applications for Non Material Change of use.

Part D - Publicity

On adoption of this Scheme of Delegation the Council made a copy available on the Councils website at www.derrystrobane.com available at Area Planning Office, Orchard House, 40 Foyle Street, Derry

Part 3 – Rules of Procedure

Access to Information Procedure Rules

Council will comply with the requirements of the Local Government Act Northern Ireland 2014, The Freedom of Information Act 2000, The Environmental Information Regulations 2004, and the Data Protection Act 1998.

Financial and Budget and Policy Framework Procedure Rules

In respect to all Financial and Budgetary decisions Council will comply with the following Policies:

- Policy for the Purchase of Supplies and Services

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- Capital Expenditure Procedure
- Financial Management and Budgetary Control Policy

Contracts Procedure Rules and Procurement Policy

In respect of all Contracts and Procurements Council will comply with its Procurement Policy and Procedure Rules, a copy of which is inserted below.

Policy for the Purchase of Supplies & Services

1 Introduction

The objective of Derry City & Strabane District Council's Purchasing Procedure is to obtain "best value for money" in all purchasing activity whether it is for goods or services or Panel of Contractors. This procedure and Purchasing Strategy have been formulated in line with the National Procurement Strategy, launched in October 2003 by the Office of the Deputy Prime Minister, which aims to help public bodies recognise the potential of effective and innovative procurement to improve service delivery, and deliver best value.

2 Purpose

To provide a standard format when purchasing supplies and / or services, or using Panel of Contractors.

3 Scope

These procedures should be followed when supplies and / or services, or panel of Contractors are being procured.

4 Applicable Documents and Definitions

4.1 Purchase Order Document: A Purchase Order (PO) is a legal document released to suppliers to confirm Derry City & Strabane District Council's intention to purchase supplies or services, and may include attached terms and conditions as appropriate.

4.2 Responsible Persons/Requisitioners: Those Officers in each department authorised to raise PO's and obtain quotations as appropriate. They are also responsible for checking receipt of goods / services and processing invoices for payment.

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- 4.3 **Responsible Persons/Approvers:** Those Officers in each department authorised to approve orders. These Officers will generally be Heads of Service/ Lead Officers and Directors.
- 4.4 **Approval Limits:** Detailed in 8 below.
- 4.5 **Purchase & Payments Manager:** Derry City & Strabane District Council's Procurement Manager must be consulted prior to the placement of orders over £10,000, and Tender liaison.
- 4.6 **Contract:** An agreement will be drawn up in an appropriate format and verified by both parties documenting agreed terms and conditions, including but not limited to, contract value, duration of contract, cancellation and termination clauses and payment terms. A contract will be put in place for high value / critical procurement of supplies and / or services.
- 4.7 All tendered Works Contracts will be supported with a contract and a purchase order. The Chief Executive and / or Mayor of the Council will sign each contract.
- 4.8 All supplies and services or Panel of Contractors contracts will be supported by a contract and a purchase order. Prior to said contract being signed by the Chief Executive, the contract must be signed by Director, Head of Finance and Senior Solicitor.

5 Provision of Supplies and Services other than by Annual Tender.

- 5.1 Revised monetary limits and quotation requirements with effect from 1st April 2015. The guidelines for competitive bidding for Supplies and Services purchases are as follows:

Value of Supplies & Services	Minimum number of written quotes required	Authority to approve	Approval needed for non adherence to quotation requirement
£0 - £1500	Reasonable effort must be made to achieve value for money, documentary evidence should be retained so show that Value for Money has been obtained (carry out a price check with at least two suppliers to ensure value for money has been achieved. Price	Head of Service/ Lead Officer	In the circumstances of the lowest quotation for amounts not being considered acceptable or less than the required number of quotations being sought, Heads of Service/ Lead Officers,

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	checks should be documented and retained on file for audit purposes.)		before accepting another quotation must seek the approval of the Director
£1,500 - £7,500	Three written quotes	Head of Service/ Lead Officer	
£7,500 - £20,000	Four written quotes The Procurement Manager must be consulted prior to procurement on all activity over £10,000	Director	In the circumstances of the lowest quotation for amounts not being considered acceptable or less than the required number of quotations being sought, Directors, before accepting another quotation must seek the approval of the Chief Executive
£20,000 - £30,000	Four written quotes. The Procurement Manager must be consulted prior to procurement on all activity over £10,000	Chief Executive	
£30,000 +	Tenders should be invited through public advertisement	Council Approval	

Where the estimated value of the tender for supplies and services exceeds European Union thresholds applicable at time of Tendering, it must also comply with EU Public Procurement Regulations

Tenders should be invited through public advertisement and only accepted with the approval of Council. Tenders are then received and securely stored until opened and initialled by elected members, a tender panel then meets to review tenders in line with evaluation criteria stated in document, each section is scored and then the highest scoring tender is recommended for approval.

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- 5.2 Revised monetary limits and quotation requirements with effect from 1st April 2015. The guidelines for competitive bidding for Panel of Contractors purchases are as follows:

Value of Supplies & Services	Minimum number of written quotes required from agreed Panel of Contractors	Authority to approve	Approval needed for non adherence to quotation requirement
£0 - £2500	Agreed hourly are used along with materials and agreed mark up	Head of Service/ Lead Officer	In the circumstances of the lowest quotation for amounts not being considered acceptable or less than the required number of quotations being sought, Heads of Service/ Lead Officers, before accepting another quotation must seek the approval of the Director
£2,500 - £7,500	Three written quotes	Head of Service/ Lead Officer	In the circumstances of the lowest quotation for amounts not being considered acceptable or less than the required number of quotations being sought, Directors/ Chief Executive (over £20000), before accepting another quotation must seek the approval of the Chief Executive
£7,500 - £30,000	Four written quotes The Procurement Manager must be consulted prior to procurement on all activity over £10,000	Director up to £20000. Chief Executive up to £30,000	In the circumstances of the lowest quotation for amounts not being considered acceptable or less than the required number of quotations being sought, Directors/ Chief Executive (over £20000), before accepting another quotation must seek the approval of the Chief Executive
£30,000 +	Tenders should be invited through public advertisement	Council Approval	

- 5.3 Where the estimated value of the tender for supplies and services exceeds European Union thresholds applicable at time of Tendering, it must also comply with EU Public Procurement Regulations.
- 5.4 It is a requirement that all large scale projects include a Voluntary Social Clause in the tender documents. As a minimum, tenders with a minimum labour value of

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£250,000 and contract duration of at least 6 months are to be screened for the inclusion of social clauses.

- 5.5 Orders below £1500 (Supplies & Services) / £2500 (Panel of Contractors) do not require a quotation to be forwarded to the Responsible Person, however all documentary evidence supporting value for money should be provided, if there is a quotation reference / date this should be detailed on the purchase order. Orders above £1500 (supplies & Services) / £2500 (Panel of Contractors) require the written quotation(s) to be forwarded to the relevant Responsible Person for procurement.
- 5.6 It is essential that the Head of Service/ Lead Officers / Directors ensure that each procurement is conducted in line with the above. Should external funding be provided and the conditions stipulated in any relevant Letter of Offer are more onerous than the above the Head of Service/ Lead Officer / Director must ensure these more stringent conditions are adhered to.
- 5.7 It is essential that the relevant budget is available and confirmed by the Head of Service/ Lead Officer / Director.
- 5.8 Any deviations from this procedure will be noted and raised by the Head of Finance at Management Team meetings.
- 5.9 Under Local Government Finance Act (Northern Ireland) 2011, it is required that Economic Appraisals are undertaken for Procurements greater than £50,000 ensuring adherence to Framework for Undertaking Economic Appraisal of Council Expenditures.
- 5.10 Orders for computer hardware / software must be routed through IT for evaluation / purchase to ensure compatibility with existing supply.

6 Single Tender Actions

In exceptional circumstances Single Tender Actions may be permissible; the requests should be detailed and approved prior to placing order.

In order to request approval for a Single Tender the below form should be filled out in detail.



Single Tender
Action.docx

The below table details the approvals required for Single Tenders

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Value of Single Tender Action	Approver
Up to £7500	Director
£7501 - £20000	Chief Executive
£20000+	Council

Once approved in line with the above a copy should be forwarded to the Procurement Manager.

7 Procurement of Consultants

7.1 Possible methods:-

- Employment (with associated PAYE/ NIC and pension costs)
- Agency (more expensive but no PAYE/ NIC and pension costs)
- Self-employment

7.2 Employment and agency appointments require HR approval. Self-employment appointments should be carried out in line with Council's procurement policy which specifies required number of quotations (see table above) and also that Council approval is required for such appointments as per below.

Value of Consultant Appointment	Approver
Up to £7500	Director
£7501 - £20000	Chief Executive
£20000+	Council

7.3 In addition, it is essential that self-employment appointments are checked using the link below to ensure that payments should not be subject to PAYE/ NIC. Advice should be sought from the Finance Department if required. The HMRC decision obtained using the link should be printed off and retained as evidence should the tax treatment subsequent be challenged by HMRC.

<http://www.hmrc.gov.uk/calcs/esi.htm>

8 Approval Limits

8.1 **Responsible Persons/Approver: Heads of Service/Lead Officers:** Delegated authority to purchase supplies and services up to £7,500.

8.2 **Director:** Delegated authority for the purchase of supplies and services up to £20,000.

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- 8.3 **Chief Executive:** Delegated authority for the purchase of supplies and services up to £30,000
- 8.4 Revisions to approval limits and changes to Responsible Persons Register will be carried out by the Finance Department on a periodic basis and approved by relevant Director. Any changes should be forwarded to Finance Department.

9 Payments

- 9.1 All payments (Invoices, Proforma invoices, Grant Payments, SLAs etc) must be accompanied by a valid purchase order.
Grants and contributions paid to outside bodies should be in accordance with those current terms and conditions as approved by the relevant committee.
- 9.2 Invoices for Supplies and Services / Panel of Contractors must first be registered in Accounts Section. It is therefore essential that all suppliers are advised when purchasing that all invoices must be sent to Accounts. If an invoice is received directly by department it must be sent to Accounts for registration.
- 9.3 Upon receipt of registered invoice the requisitioner will attach and fill out a debit slip and forward invoice for certification, in line with limits described in 8 above, for payment within 5 working days. If the invoice cannot be certified within 5 days it is essential that Accounts are informed of the reason for non-certification. Before certifying an account, the Director/Head of Service/ Lead Officer must satisfy himself/herself that:-
- the work, goods or services to which the account relates have been carried out, received, examined and approved;
 - the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
 - the expenditure has been properly incurred, and is within the relevant original or revised estimate provision;
 - appropriate entries have been made in inventories, stores records or stock books as required;
 - the account has not been previously passed for payment and is a proper liability of the Council.
 - Once certified the invoice should be returned to Accounts for payment.
- 9.4 At the discretion of the Head of Finance (or as delegated), pro-forma / cheque request payments may be made in exceptional circumstances in advance of receipt of goods/services such as one-off purchases. In this case the requisitioner will complete an order and obtain appropriate approvals. The requisitioner will request

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the supplier to submit a pro-forma invoice and should attach the final invoice to the pro-forma invoice once it is received.

Where part deliveries are made the requisitioner should mark the items delivered on the PO. Invoices received for part deliveries should be accompanied by a copy of the purchase order and goods received note and submitted to accounts for payment. Once all deliveries have been made against the order then the 2nd part of the PO should be detached from the order book and attached to the invoice for the last delivery.

- 9.5 All Directors/Heads of Service/ Lead Officers shall as soon as possible after 31 March and not later than a date specified by the Head of Finance, notify the Head of Finance of all outstanding expenditure relating to the previous financial year. It is the responsibility of the Director/Head of Service/ Lead Officer to ensure that upon payment of these items they are properly identified and coded.

10 Capital Expenditure

- 10.1 All Capital expenditure must be made in accordance with Capital Expenditure & Major Corporate Projects Regulations.

11 Legal and Policy Framework

11.1 Legal Context

The National Procurement Strategy, launched in October 2003 by the Office of the Deputy Prime Minister, aims to help public bodies recognise the potential of effective and innovative procurement to improve service delivery, and deliver best value.

Derry City and Strabane District Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The Council also has a duty under Local Government (Best Value) Act (Northern Ireland) 2002 to make arrangements for continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

The Council comply with all relevant legislation and case law including:

- Local Government (Best Value) Act (Northern Ireland) 2002
- The Local Government Best Value (Exclusion of Non-commercial Considerations) Order (Northern Ireland) 2012

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- Public Contracts and Utilities Contracts Regulations
- EU procurement rules (the Treaty and procurement directives)
- International obligations, notably WTO agreements
- Regulation 2A of the Local Government Accounts and Audit (Amendment) Regulations (Northern Ireland 2006).
- Bribery Act 2010
- Local Government Finance Act (Northern Ireland) 2011
- Public Contracts Regulations 2015
- Specific domestic legislation, including subordinate legislation implementing directives;
- Contract and commercial law in general
- Relevant European Court of Justice case law domestic case law.

In discharging this overall responsibility, Derry City and Strabane District Council is responsible for putting in place proper arrangements for the governance of its affairs and facilitating the effective exercise of its functions, which includes arrangements for the management of procurement.

The Council is required to prepare an Annual Governance Statement which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. This statement explains how the Council has complied with their statutory duties under Part II of the Local Government (Northern Ireland) Order 2005 and also meets the requirements of Regulation 2A of the Local Government Accounts and Audit (Amendment) Regulations (Northern Ireland 2006).

11.2 Linkage to Corporate Plan

In the achievement of the objectives and priorities set out in the Corporate and Business Plans, Derry City and Strabane District Council will be exposed to various risks. The task of management is to respond to these risks so as to maximise the likelihood of achieving the objectives and priorities by managing the exposure to risk to an acceptable level.

This policy will have a positive impact on the Council's commitment to be open and accountable and aims to provide quality and value for money.

12 Impact Assessment

12.1 Screening and Equality Impact Assessment

A completed Screening Questionnaire has been completed and is attached. The Strategy is to be screened out for Equality Impact Assessment

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12.2 Impact on Staff and Financial Resources

There will be no impact on staff and financial resources as a result of this Policy.

12.3 Sustainable Development

Derry City and Strabane District Council is committed to meeting its duties under 'Sustainable Development Duty: Section 25 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (s 25)' by ensuring sustainable development considerations built into the terms and conditions of tenders.

Complex projects such as those involving PFI represent a large investment of public money over time in the private sector, and voluntary and community groups can help to ensure that this money is spent according to the needs of local communities.

Council will also comply with Northern Ireland Procurement Policy which recognises that the primary objective of procurement should be to achieve **Best Value for Money**, which is defined as

"the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements".

This definition stresses that value for money does not mean lowest price. Any procurement would have to meet its requirements for sustainable development to be deemed good quality and fit for purpose.

13 Implementation

13.1 Roles and Responsibilities

The management of procurement is a key organisational responsibility. All Council members and employees have a major role to play ensuring adherence to procurement rules. The responsibilities for procurement for different roles within the Council are set out below:

Elected Members

The Elected Members are responsible for:

- Approving the Council's procurement policy;

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- Ensuring existence of and approving effective strategic framework i.e. Audit Committee; and
- Demonstrating commitment to and ensuring sufficient priority and profile for Procurement.

Chief Executive

The Chief Executive is responsible for:

- Ensuring good corporate governance within the Council.
- The provision of organisational commitment to procurement process by driving service and organisational improvements;
- Being the clear figurehead for implementing the procurement process by making a clear and public personal commitment to making it work;
- Ensuring the implementation of the Council's Procurement Strategy, ensuring sensible management decisions are taken and overseeing any subsequent review processes; and
- Maintaining positive relations with the media and managing any publicity regarding the Council, which may have procurement dimensions.

Directors/Heads of Service/Lead Officers

Directors/Heads of Service/Lead Officers are responsible for:

- Ensuring that sufficient resources have been allocated to ensure that procurements are being managed effectively and for taking appropriate action for all procurements.
- Providing ongoing support for procurements; and
- Preparing a stewardship report to the Chief Executive on an annual basis to facilitate the signing of the Council's Annual Governance Statement.

Employees

All employees have an individual responsibility to:

- Manage procurement, which they have been given responsibility for.
- Participate in procurement education and training; and
- Comply with Council policies and procedures;

Procurement

The Procurement Manager is responsible for:

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Meeting with directors / heads of service/ lead officers / employees on a regular basis to provide advice and guidance on procurement and to gain assurance that all procurements are being managed effectively;

13.2 Support and Advice

Advice and guidance on this Policy may be obtained from the Procurement Manager, Head of Finance or Head of Corporate Governance & Legal Services

13.3 Guidelines and Forms

Purchase order books and debit slips will be provided to the relevant people responsible for co-ordinating of orders and payments within their relevant Departments.

13.4 Communication Strategy

All Council Staff, Elected Members, and agency staff will be provided with a copy of this Strategy. Staff will be advised if further information is required in relation to the Policy to contact the Head of Corporate Governance & Legal Services for advice and guidance

13.5 Risk Management

Failure to effectively implement this Policy increases the risk of the Council not achieving the highest possible standards in terms of openness, probity and accountability. This Policy will be monitored regularly to ensure that it is being implemented

14 Monitoring Review and Evaluation

This Policy will be monitored, reviewed and evaluated and reviewed every 2 years. However, the policy will be reviewed sooner in the event of any one or more of the following:-

- Failure or weakness in the Strategy is highlighted
- Changes in legislative requirements
- Changes in Government/Council or other directives and requirements.

15 Miscellaneous

Purchase Orders are to be retained for a period of 5 years.

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Council Standing Orders Derry City & Strabane District Council Standing Orders – April 2015

1. Annual and Monthly Meetings

- (1) In every year that is not a local election year Council shall hold an Annual meeting in the month of June.
- (2) In any year which is a local government election year, the Annual Meeting shall be held within twenty-one days immediately following the election, at such time as Council may fix at the offices of Council or at such other place as the Department may direct.
- (3) A meeting of Council for the transaction of general business of the Council shall, subject to any deviation which special circumstances may render desirable, be held on the fourth Thursday of every month, except August. Other meetings of Council for the transaction of general business shall be held as Council considers necessary.
- (4) Meetings of Council shall not take place on a Public or Bank Holiday, a Saturday or a Sunday. When the day of a meeting falls on one of these days, the meeting shall be held on the next following weekday instead.

2. Time and place of meetings

The Annual Meeting and other meetings of the Council shall be held at 4.00pm in the Guildhall Derry or the Council Chamber of Strabane District Council, except where otherwise fixed by statute or by special summons. Meetings of any committee or sub-committee of the Council shall be held at the time and place stipulated in the Notice and Summons.

3. Convening Special Meetings

- (1) The Chairperson of the Council may call a meeting of the Council at any time.
- (2) The Chairperson of the Council may call a meeting of the Council if a requisition for such a meeting, signed by eight members or one-fifth of the whole number of members, whichever is the greater, is presented to him/her; and, if he/she refuses to call a meeting on such a requisition or if, without so refusing, he/she does not call such a meeting within the period of seven days from the date of service of the requisition on him/her, any five members or one-fifth of the whole number of

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members, whichever is the greater, may on that refusal or on the expiration of that period forthwith call a meeting of the Council.

4. Notice and Summons of Meetings

Three days at least before a meeting of the Council, a Committee or Sub-Committee:

- (1) Notice of the time and place of the intended Meeting shall be published on the Council website. Where the Meeting is called by Councillors, the notice shall be signed by them and shall specify the business proposed to be transacted thereat;
- (2) A summons to attend the Meeting, specifying the business proposed to be transacted thereat and signed by the Clerk shall be left at, or sent by ordinary post to the usual place of residence of every Councillor or if the Councillor so agrees, by electronic mail to that councillor's designated Council email address. Want of service of this summons shall not affect the validity of a Meeting;
- (3) Except in the case of business required by statute, or where in the opinion of the chairperson of the Meeting the business should be considered by the Meeting as a matter of urgency, no business shall be transacted at a meeting of the Council, a Committee or Sub-Committee other than that specified in the summons relating thereto.

5. Chair to be taken

At each meeting of the Council, the Chair shall be taken at the time for which the meeting is convened, and business immediately proceeded with.

6. Chairperson of Meeting

- (1) At a Meeting of the Council, the Chairperson of the Council, if present, shall preside.
- (2) If the Chairperson of the Council is absent from a Meeting of the Council, the Deputy Chairperson of the Council, if present, shall preside.
- (3) If both the Chairperson and Deputy Chairperson are absent from a Meeting of the Council, a representative of the political party whose member is Chairperson of the Council shall nominate a member to preside in their absence.
- (4) If discussion arises on the allocation of the position of Chairperson, the Clerk shall exercise the powers of the Chairperson to assist in the regulation of that discussion.

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- (5) Any power of the Chairperson of the Council in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

7. Quorum

- (1) Subject to sub-paragraph 7.4, no business shall be transacted at a Meeting of the Council unless at least one-quarter of the whole number of councillors are present.
- (2) If during a meeting, the person presiding, after the number of members present is counted, declares that a meeting is inquorate and it is unlikely that there will be a quorum present within 30 minutes, he shall declare the meeting adjourned.
- (3) Any uncompleted business on the agenda of a meeting adjourned under Standing Order 7(2) above shall be tabled for discussion at the reconvened meeting. No business, other than the uncompleted business on the agenda of the meeting adjourned, may be discussed at the reconvened meeting.
- (4) Where more than one-quarter of the members become disqualified at the same time then, until the number of members in office is increased to not less than three-quarters of the whole number of members, the quorum of the Council shall be determined by reference to the number of members remaining qualified instead of by reference to the whole number of members.

8. Admission to meetings

- (1) Subject to the provisions of this Standing Order, every Meeting of the Council shall be open to the public.
- (2) The public and press may attend only in those parts of the Council Chamber provided for their accommodation at meetings of the Council, unless specifically excluded in accordance with the provisions of Standing Order 9; or as required by the Council to comply with provisions in relation to Fire Safety and Health & Safety.
- (3) The admission of the public is upon the understanding that they must continue at all times to be seated, and that no expression of opinion or noise of any kind be allowed from them.
- (4) At all times during which a Meeting of the Council is open to the public, the Council shall, so far as is practicable, cause to be made available to duly accredited representatives of newspapers attending for the purpose of reporting proceedings at the meeting reasonable facilities for taking reports of these proceedings and, on

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payment by those representatives or their newspapers of any expenses which may be incurred, for transmitting such reports to their newspapers.

- (5) Taking photographs of proceedings or the use of any other means by members of the public to enable persons not present to see or hear any proceedings (whether at that time or later) or making of any oral report of any proceedings as they take place shall be prohibited unless expressly permitted by the Council.
- (6) The use of social media by councillors, members of the public or journalists shall be permitted, during those proceedings that are open to the public, to the extent that its use does not disrupt proceedings.

9. Record of attendances at meetings

The names of the members present at a meeting of the Council shall be recorded by the clerk.

10. Exclusion of the public

- (1) The public shall be excluded from a Meeting of the Council whenever it is likely that, during the transaction of an item of business, confidential information would be disclosed to them in breach of an obligation of confidence.
- (2) The Council may by resolution exclude the public from a Meeting of the Council (whether during the whole or part of the proceedings at the meeting) for such special reasons as may be specified in the resolution being reasons arising from the nature of the business to be transacted or of the proceedings at the Meeting.
- (3) The Presiding Chairperson may at any time during the proceedings, if he/she thinks it necessary to secure order, direct the removal of any individual or group of individuals from the Council Chamber, or order the Council Chamber to be wholly cleared of members of the public.
- (4) The Council, having excluded the public, shall only consider the matter referred to it by the resolution. If it should be deemed necessary to consider any matter not included in the resolution, the public shall be re-admitted and the chairperson may ask leave of the Council to take up the consideration of such additional matters as may be deemed desirable.
- (5) The Council, having excluded the public, shall not have the power to adjourn its own sittings or to adjourn a debate to a future sitting. If the business referred to in the resolution is not transacted, the Council may be resumed and a member of the

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Council may move that the Council again exclude the public on a future day to deal with the business specified in the resolution which was not transacted.

- (6) If the Council, with the public excluded, has transacted part of the business referred to it, without being able to reach a decision on all the business so referred, a member of the Council may, with leave of the Council, report on the progress to that point and ask the Council's permission to sit again.
- (7) When the Council, having transacted business with the public excluded, submits its report to the Council, a motion for its adoption shall then be moved and put. No questions or discussion shall be permitted on the report or the motion for its adoption.

11. Deputations

- (1) Deputations, from any source, shall only be admitted to address the Council provided the Clerk has received seven working days' notice of the intended deputation and a statement of its objective.
- (2) The deputation shall be confined to the presentation of a statement, or copy of resolutions, and shall not make more than two short addresses by any two members of the deputation. The totality of the address shall not exceed 15 minutes.
- (3) Deputations should not be repetitive and, where possible, issues of a similar or linked nature should be contained in one deputation. Where a deputation has made one presentation to the Council, the Council may decline to accept another deputation on the same issue from the same individual or group for a period of six months.

12. Order of Business

Subject to any statutory requirements to the contrary, the order of business at every meeting of the Council shall be as follows:

- a) confirmation of the Minutes of the last stated Meeting and of all adjourned meetings and special meetings held since the last stated Meeting;
- b) declaration of members interests;
- c) matters arising;
- d) deputations;

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- e) business required by statute to be transacted at the Meeting;
- f) adoption of the minutes of the proceedings of any committees and consideration of reports, if any, from such committees;
- g) reports of officers, public bodies, agencies etc., if any, may be considered and such orders given thereon as may be deemed necessary;
- h) reports on decisions/recommendations subject to the reconsideration procedure;
- i) other Reports;
- j) correspondence and matters not already dealt with;
- k) sealing of documents;
- l) consideration of motions of which due notice has been given, in the order in which they have been received;
- m) any other relevant business.

13. Minutes of the Council

13.1 Keeping of minutes as evidence etc.

- (1) Minutes of the proceedings of a Meeting of the Council, or of a committee or sub-committee, shall be drawn up and entered in a bound book kept for that purpose.
- (2) No discussion shall take place upon the Minutes except upon their accuracy.
- (3) Any minute purporting to be signed as mentioned in sub-paragraph (1) shall be received in evidence without further proof.
- (4) Until the contrary is proved, a Meeting of the Council or of a committee or sub-committee thereof in respect of the proceedings of which a minute has been so made and signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified, and where the proceedings are proceedings of a committee or sub-committee, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

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13.2 Signing of

The Minutes of a Meeting of the Council shall be signed at the next ensuing Meeting of the Council by the Chairperson presiding, if approved by the meeting at which they fall to be signed.

14. Submission of Minutes

- (1) In order to give sufficient time for the preparation of the minutes and for their perusal by the members of the Council, minutes of meetings of a committee held later than seven days before the meeting of the Council shall not be submitted to that meeting for approval. This may be disapplied where a committee considers the matter to be of extreme urgency and records such a decision in its minutes.
- (2) It shall be the duty of a committee, through the chairperson or his/her representative, when its minutes are submitted for approval, to call the attention of the Council to any resolution or matter of an unusual or special character contained therein.

15. Minutes of Committees

- (1) A motion or amendment shall not be made or proposed, or any discussion allowed on the proceedings of committees with reference to any matter within the remit of a committee which does not appear on the minutes submitted to the Meeting of the Council.
- (2) Any member wishing to raise an issue regarding any matters appearing in the minutes submitted to the Council for approval and who states his/her request in writing to the Chairperson of the committee twenty-four hours before the commencement of the Meeting of the Council shall be entitled to a reply when the proceedings of the particular committee are submitted for approval.
- (3) A reply to an issue raised at the meeting regarding any matter in the minutes, without written notice, shall be at the discretion of the Chairperson of the committee.
- (4) Any matter in the minutes of a committee on which a request for reconsideration, under section 41 of the 2014 Act, has been lodged with the clerk of the Council shall be identified, and may not be the subject of discussion at that meeting.

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16. Motions

- (1) Every motion shall be relevant to some matter:
 - i) in relation to which the Council:
 - a) has power or duties;
 - b) is not prevented from taking action on by other legislation;
 - ii) which directly affects the local government district or its residents; and
 - iii) for which the Council is legally competent.

16.1 On notice

- (1) Notice of every motion, other than a motion which under Standing Order 16.2 may be moved without notice, shall be given in writing, signed by the member or members of the Council giving the notice, to the Clerk not later than at least seven days before the next Meeting of the Council. The motion must be clear in meaning otherwise it shall be rejected until such time as it is resubmitted in clear language, and not later than seven days before the meeting.
- (2) A motion shall be rejected if the wording or nature of the motion is considered unlawful or improper.
- (3) All notices shall be dated and numbered as received, and entered in a register to be kept for that purpose. This register shall be open to inspection by every Member of the Council.
- (4) Notices of motion shall be entered by the Clerk in their proper place upon the Summons Paper in the order in which they are received.
- (5) If a motion set out in the Summons is not moved either by a member who gave notice or by some other member on his behalf, it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- (6) If the subject matter of any motion of which notice has been properly given comes within the remit of any committee it shall, upon being moved and seconded, stand referred without discussion to that committee, or to such other committee as the Council may determine, for consideration and report. The chairperson presiding may, if he/she considers it urgent and necessary to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

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- (7) If a notice of motion fails to be considered at a Meeting of the Council, such notice of motion will only be included on the Summons Paper for the following meeting if submitted in writing to the Clerk by the member concerned not later than seven days, at least, before the Council meeting.
- (8) Any notice of motion which fails to be considered at two consecutive meetings will not be accepted for inclusion on the Summons Paper for a period of six months from the date of the second meeting at which the matter has failed to be considered.

16.2 Without notice

The following motions may be moved without notice:

- a) to appoint a Chairperson 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 members thereof 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 flowing 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 Standing Orders, in accordance with Standing Order 27.1;
- n) to exclude the public and press in accordance with section 42 of the 2014 Act;
- o) to not hear further a member named under Standing Order 23.3 or to exclude them from the meeting under Standing Order 23.4.

17. Amendments

- (1) When a motion is under debate at any meeting of the Council, an amendment or further motion shall not be received, with the exception of the following:
 - a) to amend the proposal; or
 - b) that the Council do now adjourn; or
 - c) that the debate be adjourned; or

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- d) that the question be now put; or
- e) that the Council do proceed to the next business.

17.1 To amend the Proposal

- (1) An amendment must be legitimate and within the scope of the notice convening the meeting. It must not be a direct negative; must be relevant to the proposal which it seeks to amend, and not inconsistent with anything already agreed upon at the same meeting. An amendment must relate solely to the proposal which it seeks to amend, and not be, in effect, a new proposition on a different matter, and must not place a greater responsibility on the meeting than the original proposal.
- (2) An amendment to a motion shall be either:
 - a) to refer a subject of debate to a committee or to an officer for consideration or re-consideration;
 - b) to leave out words;
 - c) to leave out words and insert or add others; or
 - d) to insert or add words

but such omission, insertion or addition of words shall not have the effect of directly negating the Motion before the Council.
- (3) When an amendment upon an original proposal has been moved, the question to be put shall be "That the amendment be made". Where any amendment is agreed, the question to be put shall be "That the proposal, as amended, be agreed". Where any amendment is rejected the question of the substantive proposal shall be put.

17.2 That the Council Do Now Adjourn

- (1) Any member of the Council who has not already spoken to the proposal or amendment then under debate may move "that the Council do now adjourn". Such a proposal must be seconded, but it need not be reduced to writing. The mover and seconder shall not speak beyond formally moving and seconding the proposal, which shall be put to the vote without debate.
- (2) In the event of the proposal for the adjournment being carried, the Chair shall (unless stated in the proposal) fix the date for the adjourned meeting for the continuation of the debate on the proposal or amendment under discussion at the time of the adjournment, and for the transaction of the remaining business (if any) on the Agenda for the meeting so adjourned.

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- (3) A second proposal “that the Council do now adjourn” shall not be made within half-an-hour unless, in the opinion of the Chair, the circumstances are materially altered.

17.3 That the Debate be Adjourned

- (1) Any member of the Council who has not already spoken to the proposal or amendment then under debate may move “that the debate be adjourned”. Such a proposal must be seconded, but it need not be reduced to writing. The mover and seconder shall not speak beyond formally moving and seconding it.
- (2) Before putting to the meeting a proposal “that the debate be adjourned”, the Chairperson presiding shall call on the mover of the proposal or amendment under discussion to reply on the question of adjournment and, after such reply, which will not prejudice the right of the mover of a proposal to reply on the original question, shall put the proposal for adjournment of the debate to the vote without further debate.
- (3) If the proposal be carried, the Council shall proceed to the next business on the agenda, and the discussion of the adjourned debate shall be resumed at the next meeting of the Council unless a special meeting of the Council shall be called for the purpose.
- (4) On resuming an adjourned debate, the member who moved its adjournment shall be entitled to speak first. A second proposal “that the debate be adjourned” shall not be made within half-an-hour. A member shall not move or second more than one proposal for the adjournment of the same debate.

17.4 That the Question Be Now Put

- (1) Any member who has not already spoken to the proposal or amendment then under debate may move “that the question be now put”. Such a proposal must be seconded, but it need not be reduced to writing. The mover and seconder shall not speak beyond formally moving and seconding it.
- (2) If the Chairperson is of the opinion that the subject before the Council has been sufficiently discussed, he shall put the proposal “that the question be now put” to the vote without debate and if same is carried, the proposal or amendment under discussion shall be put to the Council.
- (3) A second proposal “that the question be now put” shall not be made on the discussion of the same question within half-an-hour.

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- (4) A member shall not move or second more than one proposal "that the question be now put" on the discussion of the same question.

17.5 That the Council Do Now Proceed to the Next Business

- (1) Any member of the Council who has not already spoken to any proposal or amendment then under debate may move, "that the Council do proceed to the next business". Such a proposal must be seconded, but it need not be reduced to writing. The mover and seconder shall not speak beyond formally moving and seconding the proposal which shall be put to the vote without debate.
- (2) If the Chairperson is of the opinion that the subject before the Council has been sufficiently discussed, he shall put the proposal "that the Council do proceed to the next business" to the vote without debate and if same is carried the proposal or amendment under discussion shall be put to the Council.
- (3) When a proposal is carried "that the Council do proceed to the next business", the question under discussion shall be considered as dropped.
- (4) A second proposal "that the Council do proceed to the next business" shall not be made on the same question within half-an-hour.
- (5) A member shall not move or second more than one proposal "that the Council do proceed to the next business" on the discussion of the same question.

18. Amendments to Regulatory Decisions

- (1) No amendment may be moved to a minute which is a Regulatory Decision.
- (2) For the purposes of these Standing Orders, a Regulatory Decision is a determination of an application for planning permission or any decision, determination, action, direction, order, approval, refusal, or enforcement action in exercise of powers of the Council as the local planning authority [or those powers specified in Executive Arrangements Regulations]; or any application for which the Council is the licensing authority.

19. Rules of Debate

19.1 Motions and amendments to be reduced to writing and seconded

- (1) A Motion or Amendment shall not be discussed unless it has been proposed and seconded and, unless notice has already been given in accordance with Standing

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Order 16.1, it shall, if required by the Chairperson presiding, be put into writing and handed to the Chairperson presiding before it is further discussed or put to the meeting.

- (2) A Member when seconding a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.

19.2 Alteration of motion

- (1) A Member may alter a motion of which he/she has given notice as proposed with the consent of the meeting. The meeting's consent will be signified without discussion.
- (2) 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.
- (3) Only alterations which could be made as an amendment may be made.

19.3 Withdrawal of motion

- (1) A Member may withdraw a motion of which he/she has given notice under Standing Order 16.1 at any time after the meeting has commenced provided that he/she has not moved the motion or spoken on it and has the consent of the meeting. The meeting's consent will be signified without discussion.
- (2) A Member may withdraw any other motions which he/she has moved with the consent of both the meeting and seconder. The meeting's consent will be signified without discussion.
- (3) No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

19.4 Mode of address

The established mode of address is to address the Council's Chairperson. While a Member is speaking, the other members shall remain silent unless making a point of order or in personal explanation. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.

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19.5 Precedence in speaking

Whenever two or more members apply to speak at the same time, the Chairperson shall decide who has precedence.

19.6 Place of member speaking

A member when addressing the Chairperson shall sit in the place allocated to him/her in the Council Chamber.

19.7 Member called to order

If any member, while speaking, be called to order, he/she shall not again address the Council until the Chairperson has disposed of the question of order.

19.8 Definition of point of order

A point of order shall relate only to an alleged breach of a Standing Order or statutory provision and the member shall specify the Standing Order or provision and the way in which he/she considers it has been broken.

19.9 Member may raise a point of order

A member may raise a point of order and shall be entitled to be heard immediately.

19.10 Ruling of Chairperson on point of order

The ruling of the Chairperson on a point of order shall not be open to discussion.

19.11 Member to speak to motion

A member who speaks shall direct his/her speech strictly to the Motion under discussion, or an amendment thereof.

19.12 Member shall not speak more than once

A member who has spoken on any Motion shall not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment moved by another member;
- b) if the Motion has been amended since he/she last spoke, to move a further amendment;

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- 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 the exercise of a right to reply given by Standing Order 19.19;
- e) on a point of order.

19.13 Duration of speeches

Except with the permission of the Council, a member, in introducing a Motion, shall not speak for more than ten minutes and in replying, for more than five minutes.

19.14 Addressing the Council

The Council during its sitting, shall not, unless with the consent of the Council, be addressed by any person who is not a member of the Council.

19.15 Only one motion/amendment may be moved and discussed at a time

- (a) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (b) If an amendment is not carried, other amendments to the original motion may be moved.
- (c) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

19.16 When a motion is under debate no other motion shall be moved

When a Motion is under debate no other Motion shall be moved except the following:

- a) to amend the motion;
 - b) to adjourn the meeting;
 - c) to adjourn the debate;
 - d) to proceed to the next business;
 - e) that the question be now put;
 - f) that a Member be not further heard;
- by the Chairperson under Standing Order 23.4, that a Member do leave the meeting.

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19.17 Chairperson rising during debate

Whenever the Chairperson rises or otherwise calls the meeting to order during a debate, a Member then speaking shall cease and the Council shall be silent.

19.18 Chairperson not to receive motion for direct negative

The Chairperson shall not receive a Motion for a direct negative to a question but, on the conclusion of the debate, the question shall be put and resolved in the affirmative or negative.

19.19 Mover's right of reply

The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his amendment.

20. Voting

20.1 Majority

Subject to any statutory provisions to the contrary, any matter will be decided by a simple majority of those members present and voting.

20.2 Chairperson's casting vote

If there are equal numbers of votes for and against, the Chairperson will have a second or casting vote.

20.3 Qualified majority [MANDATORY - wef 28 May 2014 (excluding (d)) Legislative provision - the Local Government Act (Northern Ireland) 2014 and the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014)

A qualified majority shall be required in relation to a council's decision on—

- (a) the adoption of executive arrangements or prescribed arrangements as the council's form of governance (section 19 of the 2014 Act);

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- (b) the method to be adopted other than d'Hondt for filling positions of responsibility (Schedule 1 of the 2014 Act);
- (c) the method to be adopted other than Quota Greatest Remainder for appointing councillors to committees (Schedule 2 of the 2014 Act);
- (d) the exercise of the general power of competence in accordance with section 79 of the 2014 Act;
- (e) a call-in made in accordance with section 41(1) (b) of the 2014 Act; and
- (f) the suspension of standing orders.

20.4 Show of hands

Unless a ballot or recorded vote is demanded under Standing Order 20.5, the Chairperson will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

20.5 Recorded vote

If, before a vote is called, any member present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

21 **'Call-in' Process [MANDATORY wef operation of the Local Government (Standing Orders) Regulations (Northern Ireland) 2014]**

21.1 Decisions subject to call-in

- (1) The following decisions may be subject to call-in in such manner as is specified in these standing orders –
 - (a) a decision of the executive;
 - (b) an executive decision taken under joint arrangements in accordance with section 26 of the 2014 Act;
 - (c) a key decision taken by an officer or officers of the council;
 - (d) a decision taken by a committee under delegated authority in accordance with section 7 of the 2014 Act; and
 - (e) a decision taken by a committee to make a recommendation for ratification by the council.

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- (f) a decision of the Council other than a decision to ratify a recommendation of a committee.
- (2) The following decisions shall not be subject to call-in -
 - (a) a decision on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism;
 - (b) a decision which is deemed to be a case of special urgency in accordance with regulation 26 of the 2014 Executive Arrangements Regulations;
 - (c) a decision where an unreasonable delay could be prejudicial to the council's or the public's interests;
 - (d) a decision taken by an officer or officers which is not a key decision;
 - (e) a decision by the executive which serves only to note a report from or the actions of an officer or officers.
- (3) No decision shall be subject to call-in more than once for each of the reasons specified in section 41(1) of the 2014 Act.

21.2 Call-in admissibility

- (1) A call-in shall be submitted in writing to the clerk by 10am on the fifth working day following issue of the draft minute of the decision to which the call-in relates. If a call-in is received after the specified deadline, it shall be deemed inadmissible.
- (2) A call-in shall –
 - a. specify the reasons why a decision should be reconsidered; and
 - b. subject to sub-paragraph (5) of this standing order, be deemed to be inadmissible if the reasons are not specified.
- (3) In the case of a call-in submitted under section 41(1) (b) of the 2014 Act, members shall state in the reasons specified under sub-paragraph (2) of this standing order –
 - (a) the community that would be affected by the decision; and
 - (b) the nature and extent of the disproportionate adverse impact.
- (4) Within two working days of receipt of a call-in, the clerk shall confirm that –
 - (a) it has the support of 15 per cent of the members of the council; and
 - (b) the reasons for the call-in have been specified.
- (5) Where the reasons have not been specified on the requisition the clerk shall notify the members making the requisition that it shall be considered inadmissible if

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reasons are not specified in writing within the specified deadline or within 24 hours whichever is the later.

- (6) Within one working day of receipt of an admissible call-in submitted under section 41(1) (b) of the 2014 Act, the clerk shall seek the opinion of a practicing solicitor or barrister in accordance with section 41(2) of the 2014 Act.
- (7) Where the legal opinion obtained in accordance with section 41(2) of the 2014 Act confirms that the call-in has merit, the clerk shall –
 - (a) furnish the opinion to members; and
 - (b) include the decision on the agenda for the next available meeting of the council, at which it will be taken by a qualified majority.
- (8) Where the legal opinion obtained in accordance with section 41(2) of the 2014 Act indicates that the call-in does not have merit, the clerk shall –
 - (a) furnish the opinion to members; and
 - (b) make arrangements for the decision to be implemented or tabled for ratification by the council, as appropriate.

21.3 The call-in process: committee arrangements

- (1) For the purposes of reconsideration of a decision pursuant to a call-in the minutes of a committee which record a decision –
 - (a) taken under delegated authority; or
 - (b) for ratification by the councilshall be published within seven working days of the conclusion of the meetings. This date shall be regarded as the date of publication for the purposes of a call-in.
- (2) If a call-in is not received by the deadline specified in paragraph 21.2(1) of this standing order, the decision specified in –
 - (a) paragraph 21.3(1) (a) of this standing order shall be implemented; or
 - (b) paragraph 21.3(1) (b) of this standing order shall be tabled for ratification by the council.
- (3) The tabling for ratification of a decision specified in paragraph 21.3(1)(b) of this standing order, or the implementation of a decision specified in paragraph 21.3(1)(a) of this standing order, shall be postponed (unless the total level of support for the

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call-in falls below 15 per cent of the members) until the call-in has been resolved. The decision maker may rescind the decision at any time prior to the call-in being resolved.

- (4) If an admissible call-in is made in accordance with paragraph 21.2(1) of this standing order and section 41(1) (a) of the 2014 Act, the council shall appoint an ad hoc committee of the council, the membership of which will be –
 - (a) the chairpersons of all committees of the council; and
 - (b) the deputy chairpersons of all committees of the councilto consider the process adopted by the decision-making committee.
- (5) The chairperson and deputy chairperson of the committee which was responsible for the decision which is the subject of the call-in shall not have voting rights at a meeting of the committee appointed in accordance with sub-paragraph (4) of this standing order.
- (6) The members who submitted the call-in, or a member on their behalf, shall be invited to attend the meeting at which the decision subject to the call-in is considered and may, upon the request of the chairperson, address the meeting, but shall not have voting rights.
- (7) A committee appointed in accordance with sub-paragraph (4) of this standing order may—
 - (a) refer the decision back to the decision maker;
 - (b) in the case of a decision taken under delegated authority, support the decision; or
 - (c) in the case of a decision for ratification by the council, refer the decision to the council.
- (8) Where a decision has been supported in accordance with sub-paragraph (7) of this standing order, that decision shall—
 - (a) be approved;
 - (b) be inserted in the Register of Decisions; and
 - (c) become operative from the date of the meeting at which the committee appointed in accordance with sub-paragraph (4) of this standing order confirmed support for the decision.

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21.4 The call-in process: executive arrangements

- (1) The proper officer shall, within two working days of the production of a statement in accordance with regulations 28 and 29 of the 2014 Regulations, submit to the council a notice detailing the decision(s) recorded in the statement.
- (2) The notice prepared in accordance with sub-paragraph (1) of this standing order shall specify –
 - (a) those decisions that are not subject to call-in;
 - (b) the deadline for receipt of a call-in; and
 - (c) the overview and scrutiny committee, as determined by the proper officer, that will consider a call-in in accordance with section 41(1) (a) of the 2014 Act.
- (3) If a call-in is not received in respect of a decision, that decision may be implemented after the deadline expires.
- (4) If a call-in is received which specifies that the decision was not taken in accordance with the budget or policy framework agreed by the council the call-in shall be referred to the council for decision.
- (5) The implementation of a decision shall be postponed (unless the total level of support for the call-in falls below 15 per cent of the members) until the call-in has been resolved. The decision-maker may rescind the decision at any time prior to the call-in being resolved.
- (6) The clerk shall place a call-in on the agenda of the overview and scrutiny committee specified in the notice prepared in accordance with sub-paragraph (2) of this standing order. The overview and scrutiny committee shall meet within 5 working days of receipt of the call-in. More than one call-in may be considered at a meeting of an overview and scrutiny committee.
- (7) Subject to sub-paragraph (7) of this standing order, the consideration of a matter under sub-paragraph (5) of this standing order by an overview and scrutiny committee may be adjourned, provided that –
 - (a) the chairperson presiding at the meeting; and
 - (b) the chairperson of the executiveagree a date for the continuation of the meeting.

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- (8) A meeting convened in accordance with sub-paragraph (5) of this standing order may only be adjourned under sub-paragraph (6) in order to –
 - (a) allow for additional information to be obtained; or
 - (b) permit additional witnesses to attend.
- (9) The members who submitted the call-in, or a member on their behalf, shall be invited to attend the meeting at which the decision subject to the call-in is considered and may, upon the request of the chairperson, address the meeting, but shall not have voting rights.
- (10) In response to a call-in made in accordance with section 41(1) (a) of the 2014 Act, an overview and scrutiny committee may –
 - (a) support the decision; or
 - (b) refer the decision, along with the recommendation of the overview and scrutiny committee, back to the decision maker.
- (11) Where a decision has been supported in accordance with sub-paragraph (9) of this standing order, that decision shall –
 - (a) be approved;
 - (b) be inserted in the Register of Decisions; and
 - (c) become operative from the date of the meeting at which the overview and scrutiny committee confirmed support for the decision.
- (12) Where a decision has been referred back to a decision maker in accordance with sub-paragraph (9) (b) of this standing order, the decision maker shall –
 - (a) consider the recommendation of the overview and scrutiny committee; and
 - (b) reconsider the original decision.

21.5 The call-in process - Council arrangements

- (1) For the purposes of reconsideration of a decision pursuant to a call-in under Standing Order 21.1(f) the minutes of the Council which record the decision shall be published within seven working days of the conclusion of the meeting. This date shall be regarded as the date of publication for the purposes of a call-in.
- (2) If a call-in is not received by the deadline specified in paragraph 21.2(1) of this standing order, the decision specified in paragraph 21.5(1) shall –
 - (a) be approved;
 - (b) be inserted in the registrar of decisions and;

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- (c) become operative from the date of the meeting at which the decision was made.
- (3) If an admissible call-in is made in accordance with paragraph 21.2(1) of this standing order and section 41(1) (a) of the 2014 Act, the council shall –
 - (a) refer the matter for further consideration at the next meeting of Council or;
 - (b) in the case of urgency convene a special meeting of council to consider the matter.
- (4) The members who submitted the call-in, or a member on their behalf, shall be invited to address the meeting and shall have voting rights.
- (5) At a council meeting the council may, in relation to a decision referred to it under paragraph 21.5(3) of this Standing Order
 - (a) refer the decision for further consideration by a committee where the subject matter of that decision falls within the remit of the committee;
 - (b) support the decision; or
 - (c) overturn the decision.
- (6) Where a decision has been supported in accordance with sub-paragraph (5) of this standing order, that decision shall –
 - (a) be approved;
 - (b) be inserted in the Register of Decisions; and
 - (c) become operative from the date of the meeting at which the council confirmed support for the decision.

22. Positions of responsibility, etc. – Time Limits [mandatory wef operation of the Local Government (Standing Orders) Regulations (Northern Ireland) 2014]

- (1) Subject to sub-paragraph (2) of this standing order, in relation to positions of responsibility selected in accordance with paragraphs 2(1) and 2(2) of Schedule 1 to the 2014 Act, the period specified for –
 - (a) the nominating officer to select a position of responsibility and the term for which it shall be held; and
 - (b) the person nominated to accept the selected position

shall be 15 minutes.

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- (2) An extension to the period specified in sub-paragraph (1) of this standing order may be granted subject to the approval of the council. Such an extension may be requested by -
- (a) the nominating officer;
 - (b) the person nominated to hold the selected position; or
 - (c) another member.

23. Appointment of more than one committee [mandatory wef 28 May 2014]

Legislative provision - the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014

- (1) Where the Council appoints more than one committee at the same meeting in accordance with paragraph 5 of Schedule 2 to the 2014 Act, for the purposes of determining the number of places that must be allocated across the parties and independent members of the Council, it shall agree -
- (a) the number of committees to be appointed; and
 - (b) the number of councillors that shall constitute the membership of each committee.
- (2) The total number of places to which a nominating officer of a party may nominate councillors who stood in the name of that party when elected must be calculated in accordance with paragraphs 2 to 4 of Schedule 2 to the 2014 Act and any resolution of the Council made thereunder.
- (3) A nominating officer's function under paragraph 2(1) (b) of Schedule 2 to the 2014 Act shall be exercised in such manner as to ensure that -
- (a) all members of a committee are not nominated by the same nominating officer;
 - (b) a nominating officer of a party may nominate councillors who stood in the name of that party to fill the majority of places on a committee, if the majority of councillors stood in the name of that party; and
 - (c) subject to (a) and (b), the number of councillors nominated by each nominating officer of a party, in so far as far as is reasonably practicable, bear the same proportion to the number of places on that committee as is borne by the number of members who stood in the name of that party.
- (4) Nominations made in accordance with sub-paragraph (3) of this standing order shall take into account any positions of responsibility on a committee held by a councillor who stood in the name of a party.

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24. Rescission of a preceding resolution

- (1) No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed by a member unless the notice thereof given in pursuance of Standing Order 17.1 bears the names of at least 30% of the members of the Council.
- (2) When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months.
- (3) This Standing Order shall not apply to motions moved in pursuance of a recommendation of a committee [or a Call-in]

25. Members conduct

25.1 Speaking through the Chair

When a member speaks at the Council they address the meeting through the Chairperson.

25.2 Chairperson standing

When the Chairperson speaks during a debate, any member speaking at the time must stop. The meeting must be silent.

25.3 Member not to be heard further

If at a meeting any Member of the Council, misconducts himself/herself by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly or offensively or by willfully obstructing the business of the Council, the Chairperson or any other Member may move "that the Member named be not further heard". The Motion, if seconded, shall be put and determined without discussion.

25.4 Member to leave the meeting

If the Member named continues to behave improperly after such a motion is carried, the Chairperson or any other Member 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.

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25.5 General disturbance

When the Chairperson is of the opinion that the due and orderly dispatch of business is impossible, he/she in addition to any other powers vested in him/her may, without question put, adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

26. Disturbance by public

26.1 Removal of member of the public

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

26.2 Clearance of part of meeting room

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

27. Suspension and amendment of Standing Orders

27.1 Suspension

A member may move a motion for the suspension of one or more of these Council Standing Orders. A motion under this Standing Order shall require the support of a qualified majority vote within the meaning of section 40 of the 2014 Act. Suspension can only be for the duration of the matter being discussed. The Minutes of the meeting must record the reason for the suspension. Mandatory standing orders may not be suspended by a council.

27.2 Amendment

Any motion to, add to, vary or revoke these Standing Orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

28. Interpretation of Standing Orders

The ruling of the Chairperson as to the interpretation, construction or application of any of these Standing Orders or as to any proceedings of the Council, shall not be

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challenged at any meeting of the Council.

PLANNING COMMITTEE PROTOCOL

Protocol for Operation of Planning Committee – Derry City and Strabane District

Preliminary Matters

- A weekly list of all new planning applications indicating applications to be determined by the Planning Committee and applications delegated to Officers will be circulated to all Councillors. A summary report of Delegated Scheme applications will be presented to Committee on a monthly basis.
- All Planning Committee members will be sent the Agenda in advance of the meeting with a report on each application to be considered by the Committee.
- Officers should prepare an Addendum on the day of the meeting to report any Updates or Late Representations since the Agenda was issued.
- The Chair will hold a pre-meeting with planning officers on applications and other relevant planning matters, to be considered in advance of the Planning Committee meeting.
- Planning Committee meetings should be open to the public.
- Substitute members will not be permitted to deputise.
- Legal representation will be in attendance at Committee.
- All members of Planning Committee must have taken the requisite training for either member or Chair role before they can sit on the Committee.

1. Size of Committee

Derry City and Strabane District Council comprise 40 councillors.

Best practice studies have found no simple link between the size of Committees and their effectiveness. However, it has concluded that the larger the Committee often have lower attendance levels, greater inconsistency and cost more to operate. The more members on a planning committee results in there being fewer members then in a position to act as advocates for constituents at Planning Committee.

Best practice recommends that a Planning Committee should consist of between 20% and 50% of council members, and that there should be a quorum of at least 50% of committee members present in the council chamber. As DCSDC has 40 members, 30 – 35% which is the midway point of advise would suggest the Planning Committee should consist of between 12 and 14 members.

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Taking into account, experience of Cardiff and the above best practice, and consider potential for declaration of interests, I would recommend that the new Council Planning Committee comprises of 35% of Council, which would be 14 members.

2. Frequency of Meetings

Planning Committee will meet at least once a month. Additional or special meetings will be at the discretion of the Chairman with the consent of the Committee.

3. Remit of Planning Committee

1. Development Management

The main role of the Planning Committee is to consider planning applications made to the council as the local planning authority and decide whether the applications shall be approved or refused. The decisions of the Planning Committee in determining planning applications will be taken on behalf of the Council and will not go to the full council for ratification.

2. Development Plan

The Planning Committee's role in relation to Development Plan is to be considered as part of a separate paper to Committee. Council will be required by Section 8 of the Planning Act (NI) 2011 to prepare a Plan Strategy for its Council first and thereafter and once adopted must then prepare the second stage, a Local Policies Plan. The Committee will also have an oversight role to ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that the plan is reviewed every 5 years, giving consideration to whether there is need to change the plan strategy or zonings, designations and policies.

3. Enforcement

The Planning Committee shall be required to consider and determine whether to commence with a prosecution through the courts, all other enforcement activities into alleged breaches of planning control will be delegated to planning officers, who can use their professional judgement on what enforcement action to take, if any, depending on the circumstances of each case.

The Planning Committee should also be informed of progress on cases on a quarterly basis and can request a report from officers on any enforcement matter but should not take a decision. Officers will exercise discretion when discussing

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sensitive enforcement matters at the Planning Committee to ensure possible future legal proceedings are not prejudiced.

4. Referral of Delegated Applications to Planning Committee

The Scheme of Delegation approved in February 2015 at Shadow Planning Committee includes a procedure which allows for Planning Committee members, the Chair and Head of Planning to request that the Planning Committee considers an application rather than it be delegated. Members of the public will not be able to directly request this procedure. Any referral must be based on clearly specified planning grounds to ensure efficiency management of the Planning Committee. It is also recommended that Council monitor the number of referrals.

5. Format of Planning Committee Meetings

Should include;

1. Notice of meeting and Agenda.
2. Apologies.
3. Approval of minutes of the previous meeting.
4. Declaration of interests.
5. Schedule of Planning Applications
6. Development Plan issues.
7. Enforcement report where necessary.
8. Delegated Applications Report.

The following procedures will apply for each application:

(i) Introduction by Planning Officer.

The planning Officer presents the application and makes a recommendation on whether the application should be approved, approved with conditions or refused with reasons for refusal. Plans /drawings and photographs can be used to demonstrate the proposals.

(ii) Representations – Objectors

If an objector wishes to speak they will address the Committee first. Should an objector speak the applicant should be allowed to respond if they wish even, if they have not registered to speak in advance. The total time allowed for objectors to address the Committee will not be more than 3 minutes unless the Committee decide on the day of the meeting to extend the time allowed

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due to unusual or exceptional circumstances. If more than one objector or supporter wants to speak, the Clerk/Chair will ask objectors to appoint a spokesperson to represent their views.

- (iii) Members questions to objectors.
- (iv) Representation by Councillor, MP or MLA.

The total time allowed for representations by council members in support of an application will be 5 minutes.

The total time allowed for representations by council members against an application will be 5 minutes.

MPs and MLAs will be permitted to address the Planning Committee when they have been asked to represent their constituents. Proof of this fact must be submitted to the Planning Committee. The total time allowed for representations from MPs and MLAs will not be more than 5 minutes each with an upper cap of 20mins for this section, split between 10 minutes for supporters and 10 minutes for objectors.

- (v) Representation on behalf of applicant, agent or supporter.
The total time allowed for applicant, agent or supporter to address the Committee will not be more than 5 minutes unless the committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

If more than one supporter wants to speak, the Chairman may ask the supporters or objectors to appoint a spokesperson to represent their views.

No documentation should be circulated at the meeting to members by any speakers.

- (vi) Members questions to applicant, agent or supporter.
- (vii) Planning Officers comments.

The Planning Officer should always be given the opportunity to explain the implications of the Planning Committees decision, prior to the matter being voted on.

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- (viii) Members debate including advice from officers, legal representation and statutory consultees.
- (ix) Member's decision.

The members take a vote on whether or not to agree with the Officer's recommendation. The Chair has a casting vote.

Members must be present in the council chamber for the entire item, including the Officer's introduction and update; otherwise they cannot take part in the debate or vote on that item.

Should Committee not agree with the Officer recommendation, Members should discuss reasons for refusal and conditions to a proposal but cannot amend the application. Any additional conditions should be proposed and seconded before being voted on by members. Members should be aware of the legal tests conditions need to meet if challenged, they should be necessary, enforceable, reasonable and relevant to planning and the development under consideration. Planning Officer/Head of Planning comment should be invited, as necessary. All such cases must then be returned to the next Planning Committee following consideration of the legal robustness of the decision/report and reasons for refusal or conditions.

The reasons for any decision which are made contrary to the Planning officers' recommendation must be formally recorded in the minutes and a copy placed on file.

All parties wishing to address the Committee must register their wish to do so with the Councils Chief Administrative Officer / Committee Clerk by 12 noon two working days before the meeting.

The Chairman may:

- (a) Suspend the public's right to speak if he/she considers it necessary to maintain order at the meeting: or
- (b) Vary the order of representations if he/she feels that it is convenient and will assist the Committee in dealing with the matter provided that it will not cause prejudice to the parties concerned.

In lieu of speaking, council members and members of the public may submit representations in writing for consideration by the Committee. Written representations

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will be reported to the Committee in an update report and circulated on the day of the meeting.

If a Council Member is unable to attend the Committee and submits representations in writing such representations may be read out at the Committee provided that the written representations provided that there is sufficient time i.e. the 3 minutes allocated for council member representations.

6. Decisions Contrary to Officer Recommendation

Some planning decisions are finely balanced and it is the prerogative of the Planning Committee to come to its conclusions and decision provided they are backed by sound, clear and logical planning reasons following an informed debate. Planning Committee can accept or give different weight to the various arguments and material considerations. The planning officers/Head of Planning will have the opportunity to explain the implications of the Planning Committee's decision. Consideration will need be given to whether such decisions will be capable of being defended on appeal (To the Planning Appeal Commission) with the potential for costs.

It is recommended on such occasions that the application is deferred to the next Committee meeting to allow time for appropriate consideration to draft robust reasons for refusal, or conditions for approval, manage the risk associated with the action, seek legal advice or provide additional reports.

7. Site Visits

It is recognised that, on exceptional occasions, members of the Planning Committee may need to visit a site to help them make a decision on a planning application. For example, the proposal may be difficult to visualise or the application is particularly contentious.

Site visits should be an exception as they are time consuming and expensive. If requests are made by the Planning Committee members this should be submitted 2 days in advance of Committee, and the Chair and planning officials shall discuss at Pre Meeting prior to the Planning Committee Meeting at which the application is scheduled to be determined. Site visits will only be carried out where there are clear benefits.

The Planning Committee Clerk should contact the applicant / agent to arrange access to the site. Invitations will be limited to members of the Planning Committee and Council Planning Officers. Site visits are not an opportunity to

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lobby councillors or be used to seek to influence the outcome of a proposal prior to the Planning Committee meeting. There shall be no public speaking on site visits.

Councillors should not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, they will not have the information provided by the planning officer, and, in some circumstance, it might lead to allegations of bias.

Attendance of site visits is optional, but it is recommended that the full Planning Committee should attend site visits, unless there are exceptional reasons. The Clerk to the Planning Committee should record the date of the visit, attendees and any other relevant information.

The Planning Officer should prepare a written report on the site visit which should be presented to the Planning Committee Meeting at which the application is to be determined.

8. Pre Determination Hearings

The Planning Committee has a mandatory requirement to hold Pre-Determination Hearings for those major applications which have been referred to the Department for call-in consideration, but have been returned to the council for determination. The council's Planning Committee will therefore have to hold a hearing prior to the application being determined. In addition, councils may also hold pre-determination hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support of the development.

The intention is to make the application process for major applications more inclusive and transparent by giving applicants and those who have submitted representations the opportunity to be heard by council before it takes a decision.

It will be a matter for the Planning Committee to judge when a Pre-Determination Hearing is appropriate, taking account of the relevance of the objections in planning terms, the complexity of the application and level of pre-application community consultation.

When holding a Pre Determination Hearing the procedures will be the same as the normal Planning Committee meetings. The Planning Officer will produce a report detailing the processing of the application to date and the planning issues to be considered. The number of individuals to speak on either side, time available etc.

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will be agreed prior to the hearing. If the Planning Committee decides to hold the hearing on the same day as it wishes to determine the application the Planning Officer's report should contain a recommendation.

Part 4 – Codes and Protocols

Code of Conduct for Councillors

The Northern Ireland Local Government Code of Conduct for Councillors issued under section 53 of the Local Government Act (Northern Ireland) 2014 is inserted below:

Contents

Part 1. Introduction

- Effective date of the Northern Ireland Local Government Code of Conduct for Councillors
- Background
- Public Expectations
- Guidance

Part 2. Requirement to comply with the Code

- Who does the Code apply to?
- When does the Code apply?
- Enforcement of the Code

Part 3. Principles of Conduct

Part 4. Rules of General Conduct

- Your obligations as a Councillor
- Behaviour towards other people
- Disclosure of information
- Use of your position
- Use of your council resources
- Expenses and allowances
- Registration of gifts and hospitality

Part 5. Rules relating to the registration of interests

- The role of the Chief Executive

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- Interests
- Registration of financial and other interests and memberships and management positions
- Sensitive information

Part 6. Rules relating to the disclosure and declaration of interests

- Pecuniary interest
- Private or personal non-pecuniary interest
- Dispensations

Part 7. Rules relating to lobbying and access to Councillors

- Rules of conduct regarding lobbying

Part 8. Rules relating to decision making

Part 9. Application of the Code of conduct with regard to planning matters

- Development management
- Decisions contrary to officer recommendation
- Decisions contrary to local development plan
- Policy and strategic issues
- Other interests
- Unauthorised development

Annex A -Sources of guidance relating to the Code

Annex B -Glossary

Annex C - Sanctions

INTRODUCTION

Effective Date of the Northern Ireland Local Government Code of Conduct for Councillors (the Code)

- 1.1 Parts 1 to 8 came into force on 28 May 2014 and Part 9 (Planning) shall come into force on 1 April 2015. The Code has been laid in draft and approved by a resolution of the Assembly. The Code may be amended or revised at any time but such amendment or revision is subject to the same Assembly procedure.

Background

The Local Government Act (Northern Ireland) 2014 (the 2014 Act)

- 1.2 As a consequence of decisions taken by the Northern Ireland Executive on the future shape of local government, the 2014 Act contains a number of provisions for the reform of local government. These include a new ethical framework for local government in Northern Ireland, a key element of which is the introduction of a mandatory code of conduct for Councillors. Previously, Councillors were guided by the non-mandatory Northern Ireland Code of Local Government Conduct which issued in April 2003.
- 1.3 The 2014 Act:-
- provides for the introduction of a mandatory Northern Ireland Local Government Code of Conduct for Councillors;
 - imposes a requirement for Councillors to observe the Code; and
 - establishes mechanisms for the investigation and adjudication of written complaints that a Councillor has failed, or may have failed, to comply with the Code.
- 1.4 The 2014 Act requires the Department to consult councils and such associations and bodies representative of councils and council officers and such other persons as appear to it to be appropriate, before issuing or revising the Code.

Public expectations

- 1.5 The Northern Ireland public has the right to expect high standards of behaviour from Councillors and the manner in which they should conduct themselves in undertaking their official duties and in maintaining working relationships with fellow Councillors and council employees. As a Councillor, you must meet those expectations by ensuring that

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your conduct complies with the Code. The Code details the principles and rules of conduct which you are required to observe when acting as a Councillor and in conducting council business. Therefore your behaviour will be judged against these standards of conduct.

Guidance

1.6 To assist you in understanding your obligations under the Code, you should read the guidance available from:

- the Northern Ireland Commissioner for Complaints, on the application of the Code and the complaints procedure,
- the Department, on planning matters, and
- the Equality Commission for Northern Ireland on section 75 obligations. Information on where you can find this guidance and additional contact details are provided at Annex A.

2. REQUIREMENT TO COMPLY WITH THE CODE

Who does the Code apply to?

- 2.1 The Code applies to Councillors of councils established in accordance with section 1 of the Local Government Act (Northern Ireland) 1972 Act (the 1972 Act) as amended by the Local Government (Boundaries) Act (Northern Ireland) 2008.
- 2.2 The Code will also apply to Councillors of existing councils¹ and shall continue to apply until those councils are dissolved in April 2015.
- 2.3 The 1972 Act requires a Councillor to serve on the Chief Executive of their council, a declaration of acceptance of office before they can act in the capacity of Councillor. This declaration includes an undertaking that the Councillor has read and will observe the Code (as revised from time to time).
- 2.4 The 2014 Act requires that a person who is not an elected person, but who becomes a member of any committee of a council, may not act as such unless they have given a written undertaking to the Chief Executive of the council and, in the case of a joint committee, to each of the Chief Executives of the councils constituting the committee. This includes an undertaking that they have read and will observe the Code (as revised from time to time).

¹ "existing councils" refers to those councils currently in place prior to the local government elections on 22 May 2014

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2.5 In summary, the Code applies to the following persons-

- (a) any person who is elected to office within a council,
- (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
- (c) any person treated as a non-voting member by section 17 of the 2014 Act, and
- (d) any person who is not an elected representative as mentioned in section 28(4) of the 2014 Act.

Throughout the Code, where the term "Councillor" is used, it shall refer to those persons mentioned in sub-paragraphs (a) to (d) above.

2.6 As a Councillor, it is your responsibility to make sure that you are familiar with the provisions of the Code and that you comply with those provisions.

When does the Code apply?

2.7 You must observe the Code:

- (a) whenever you conduct the business, or are present at a meeting, of your council;
- (b) whenever you act, claim to act or give the impression you are acting in the role of a Councillor; and
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your council.

2.8 You must also observe the Code if you are appointed or nominated to represent your council on another body **unless**:

- (a) that body has its own code of conduct relating to its members, in which case you must observe that code of conduct; or
- (b) compliance with the Code conflicts with any other lawful obligations to which that body may be subject. (You must draw such conflict to the attention of your council and to the other body as soon as it becomes apparent to you.)

2.9 In addition to the circumstances stipulated in paragraphs 2.7 and 2.8, you must observe the Code at all times in relation to:

- (a) conduct which could reasonably be regarded as bringing your position as Councillor or your council into disrepute (including such conduct that relates to your appointment to another body, even if that appointment did not arise from your position as a Councillor);

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- (b) conduct relating to the procuring, advocating or encouraging of any action contrary to the Code;
- (c) conduct relating to the improper use, or attempted use, of your position to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage; and
- (d) conduct relating to the use, or the authorisation of the use by others, of the resources of your council.

Enforcement of the Code

- 2.10 The 2014 Act gives the Northern Ireland Ombudsman, in his capacity as the Northern Ireland Commissioner for Complaints (the Commissioner), responsibility for the operation of the enforcing mechanisms of this Code. The 2014 Act extends the functions of the Commissioner's Office to include the investigation of, and adjudication on, alleged failure to comply with the Code.
- 2.11 The Commissioner may investigate written complaints from any person that a Councillor (or former Councillor) has failed, or may have failed, to comply with the Code. The Commissioner may also investigate cases of alleged failure to comply with the Code which come to his attention as a result of an investigation of a written complaint.
- 2.12 Where the Commissioner, having undertaken an investigation, determines that he should make an adjudication on the matters investigated, he will decide whether or not there has been a failure to comply with the Code. Where the Commissioner decides that there has been such a failure, he will decide whether no action should be taken or whether he should –
 - (a) censure the person found to have failed to comply with the Code;
 - (b) suspend, or partially suspend, the person from being a Councillor for a period of up to one year; or
 - (c) disqualify the person for being, or becoming, a Councillor for a period of up to five years.

3. PRINCIPLES OF CONDUCT

- 3.1 The Code is based on 12 principles of conduct (the Principles), which are intended to promote the highest possible standards of behaviour for Councillors. The Principles draw on the seven principles of conduct that the Committee on Standards in Public Life

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believed ought to underpin public life², and the five further principles of conduct that have been adopted by the Northern Ireland Assembly. As a Councillor, you must observe these Principles.

3.2 The rules of conduct set out in the Code (the Rules) are the specific application of the Principles. Your compliance with the Rules, which is required under the Code, will help you meet the high standards of conduct promoted by the Principles.

3.3 The 12 principles of conduct are:

Public Duty

You have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in you.

You have a general duty to act in the interests of the community as a whole.

You have a special duty to your constituents and are responsible to the electorate who are the final arbiter of your conduct as a public representative.

Selflessness

You should act in the public interest at all times and you should take decisions solely in terms of the public interest. You should not act in order to gain financial or other material benefits for yourself, your family, friends or associates.

Integrity

You should not place yourself under any financial or other obligation to outside individuals or organisations, which might reasonably be thought by others to influence you in the performance of your duties as a Councillor.

Objectivity

In carrying out council business, including considering public appointments, awarding contracts or recommending individuals for rewards and benefits, you should make choices on merit.

² Committee on Standards in Public Life, Members of Parliament, ministers, civil servants and quangos (First Report) May 1995

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Accountability

You are accountable to the public for your decisions and actions and for the way that you carry out your responsibilities as a Councillor and must submit yourself to whatever scrutiny is appropriate to your responsibilities.

Openness

You should be as open as possible about the decisions and actions that you take. You should give reasons for your decisions when required and restrict information only when the wider public interest clearly demands it.

Honesty

You should act honestly. You have a duty to declare any private interests relating to your public duties. You should take steps to resolve any conflicts between your private interests and public duties at once and in a way that protects the public interest.

Leadership

You should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of your constituents, and to ensure the integrity of your council and its Councillors in conducting business.

Equality

You should promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.

Promoting Good Relations

You should act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow and that seeks to promote a culture of respect, equity and trust and embrace diversity in all its forms.

Respect

It is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extend to individuals being subjected to unreasonable and excessive personal attack. You should keep in mind that rude and

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offensive behaviour may lower the public's regard for, and confidence in, Councillors and councils. You should therefore show respect and consideration for others at all times.

Good Working Relationships

Between Councillors - you should work responsibly with other Councillors for the benefit of the whole community. You must treat other Councillors with courtesy and respect. You must abide by your council's standing orders and should promote an effective working environment within your council.

Between Councillors and council employees - The relationship between Councillors and employees must at all times be professional, courteous and based on mutual respect. You should show respect and consideration for council employees at all times and ensure that your actions do not compromise their impartiality.

4. RULES OF GENERAL CONDUCT

Your obligations as a Councillor

- 4.1 Councillors hold public office under the law and must act:
 - (a) lawfully;
 - (b) in accordance with the Code; and
 - (c) in accordance with the standing orders of your council.
- 4.2 You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a Councillor, or your council, into disrepute.
- 4.3 You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and to take steps to mitigate any conflict of interest in relation to your functions as a Councillor. (Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.
- 4.4 You must report, either through your council's own reporting procedure or directly to the proper authority, any conduct by any other person which you believe involves, or is likely to involve, criminal behaviour.
- 4.5 You must not, at any time, whether in the course of your duties as a Councillor or in private, procure, advocate or encourage any action contrary to the Code.

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- 4.6 You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.
- 4.7 You must not make vexatious, malicious or frivolous complaints against other Councillors or anyone who works for, or on behalf of, your council.
- 4.8 You must maintain and strengthen the public trust and confidence in the integrity of your council. You must promote and support the Code at all times and encourage other Councillors to follow your example.
- 4.9 You must co-operate with your council with regard to providing the necessary information to be included in the annual accounts of the council.
- 4.10 You must assist your council to act, as far as possible, in the interests of the whole community. Although individuals are entitled to pursue their own personal concerns about local issues, you must not represent their views over the wider public interests.
- 4.11 You must ensure that you are aware of your council's responsibilities under equality legislation, and that you are familiar with the relevant legislative statutes and provisions, in particular, with the obligations set out in your council's equality scheme. This will enable you to have due regard to the need to promote equality of opportunity on grounds of age, marital status, disability, political opinion, race, religious belief, sex, sexual orientation, and whether or not people have dependants; and to have regard to the desirability of promoting good relations between people of different racial groups, religious belief or political opinion.
- 4.12 You are entitled to legally express any political opinion that you hold. In doing so, however, you should have regard to the Principles of Conduct and should not express opinions in a manner that is manifestly in conflict with the Principles of Conduct.

Behaviour towards other people

- 4.13 You must:
 - (a) show respect and consideration for others;
 - (b) not use bullying behaviour or harass any person; and
 - (c) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your council.
- 4.14 You must work responsibly and with respect, with others and with employees of councils. The "Protocol for Relations between Councillors and Employees in Northern

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Ireland District Councils³ which is included as Appendix 3 in the Code of Conduct for Local Government Employees, is available on the Local Government Staff Commission's website http://www.lgsc.org.uklfs/doc/publications/EMPLOYEE_COOE_FEBRUAR_Y_2004.doc

Disclosure of information

- 4.15 You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required to do so by law.

Use of your position

- 4.16 You must not:
- (a) use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person;
 - (b) use, or attempt to use, your position improperly to seek preferential treatment for yourself or any other person; or
 - (c) use, or attempt to use, your position improperly to avoid a disadvantage for yourself or any other person, or to create a disadvantage for any other person.

These provisions apply both to your actions in your official capacity, including as a member of a body to which you are appointed by the council, and to any dealings you may have with the council on a personal level (for example, as a council ratepayer, tenant, or recipient of a council service or as an applicant for a licence or consent granted by the council).

- 4.17 You must avoid any action which could lead members of the public to believe that preferential treatment is being sought.

Use of council resources

- 4.18 You must not use, or authorise others to use, the resources of your council:
- (a) imprudently;
 - (b) in breach of your council's requirements;
 - (c) unlawfully;
 - (d) other than in a manner which is calculated to facilitate, or to be conducive to, the

³ The Department notes this Protocol is being reviewed and will update this reference to any revised version.

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- discharge of the functions of your council or of the office to which you have been elected or appointed;
- (e) improperly for political purposes; or
- (f) improperly for private purposes.

Expenses and allowances

- 4.19 You must observe the law and your council's rules governing the claiming of expenses and allowances in connection with your duties as a Councillor.

Acceptance and registration of gifts and hospitality

- 4.20 You must:
- (a) in accordance with any standing orders of your council and within 28 days of receipt of any gift, hospitality, material benefit or service, which is above a value specified in a resolution of your council, provide written notification to your chief executive of the existence and nature of that gift, hospitality, material benefit or service;
 - (b) not accept from anyone gifts, hospitality, material benefits or services for yourself or any other person, which might place you, or reasonably appear to place you, under an improper obligation; and
 - (c) discourage gifts and offers of hospitality to any family members which might place you, or reasonably appear to place you, under an improper obligation.

5. RULES RELATING TO THE REGISTRATION OF INTERESTS

The role of the Chief Executive

- 5.1 Section 62 of the 2014 Act requires every Chief Executive to ensure that their council has established and maintains a register of member's interests. The Code recommends that a register for gifts and hospitality should also be established and maintained and that procedures are in place for dealing with relevant declarations of interests.

Interests

- 5.2 Subject to paragraphs 5.4 and 5.6, you must, within 28 days of your election or appointment to office (if that is later), register your **personal interests (both financial and otherwise)** where they fall within a category mentioned below, in your council's register by providing written notification to your Chief Executive.

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Categories of interests

- (a) any employment or business carried on by you;
- (b) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated or non-remunerated director;
- (c) any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a Councillor;
- (d) any corporate body which has a place of business or land within your council's district, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) any contract for goods, services or works made between your council and you or a firm in which you are a partner, an unincorporated body (i.e. Industrial & Provident Society), a company of which you are a remunerated director, or a body of the description specified in sub- paragraph (d) above;
- (f) any land in which you have a beneficial interest and which is within your council's district;
- (g) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (h) any body to which you have been elected, appointed or nominated by your council; any -
 - (i) public authority or body exercising functions of a public nature;
 - (ii) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (iii) body whose principal purposes include the influence of public opinion or policy;
 - (iv) trade union or professional association; or
 - (v) private club, society or association operating within your council's district, in which you have membership or hold a position of general control or management; and
- (i) any land within your council's district in which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

Registration of financial and other interests and memberships and management positions

- 5.3 You must, within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register

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that interest or change by providing written notification to your Chief Executive.

Sensitive information

- 5.4 Where you consider that the information relating to any of your personal interests is sensitive information, and your Chief Executive agrees, you need not include that sensitive information when registering that interest or, as the case may be, a change to the interest.
- 5.5 In the Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.
- 5.6 You must, within 28 days of becoming aware of any change of circumstances which means that sensitive information previously excluded from your council's register of members interests due to it being sensitive is no longer sensitive, notify your Chief Executive asking that the information be included in the register.

6. RULES RELATING TO THE DISCLOSURE AND DECLARATION OF INTERESTS

Pecuniary interest

- 6.1 Section 28 of the 1972 Act requires you to declare any pecuniary interest, direct or indirect, that you may have in any matter coming before any meeting of your council. Such interests will be recorded in the register kept by your council for this purpose.
- 6.2 You must not speak or vote on a matter in which you have a pecuniary interest.

If such a matter is to be discussed by your council, you must withdraw from the meeting whilst that matter is being discussed.

Private or personal non-pecuniary interest

- 6.3 You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.
- 6.4 You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting

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(including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.

Dispensations

- 6.5 In exceptional circumstances, you may be able to get a dispensation to speak and vote at a council meeting in spite of a pecuniary interest. The Department may grant such a dispensation under section 29 of the 1972 Act.
- 6.6 On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. Your council may have specific guidance on such matters. Subject to this, you may speak and vote on such a matter if (**but only if**):
- at least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or
 - your withdrawal, together with that of other Councillors of the council or committee who are required to withdraw due to their personal interests in the matter, would leave the council or committee without a quorum.
- 6.7 In those circumstances outlined in the preceding paragraph, you should take advice on the matter from a relevant senior council employee. If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.
- 6.8 In the case of a sub-committee which is very small and where a large proportion of Councillors declare a personal interest in the matter, it will usually be more appropriate for the matter to be referred to the parent committee.
- 6.9 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:-
- a member of a public body; or
 - a member or supporter of a charity, voluntary body or other organisation formed for a public purpose (i.e. not for the personal benefit of members).

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However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the organisation if you are a member of the organisation's management committee or governing body.

- 6.10 Section 30 of the 1972 Act requires you to disclose to the council, in writing, any relevant family relationship, as set out in paragraph (6) of that section, known to exist between you and any person you know either holds, or is a candidate for appointment to, any office in the council.
- 6.11 The requirements to make your relevant interests known on matters, in council and committee meetings, also applies in your dealings with council employees and in your unofficial relations with fellow Councillors.

7. RULES RELATING TO LOBBYING AND ACCESS TO COUNCILLORS

- 7.1 In order for a council to fulfil its commitment to being open, accessible, and responsive to the needs of the public, it should encourage appropriate participation by organisations and individuals in the decision-making process. Clearly, however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the council conducts its business.
- 7.2 As a Councillor you will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual Councillors or council committees. The rules in this Code set out how you should conduct yourself in your contacts with those who seek to influence you.
- 7.3 You may be lobbied by a wide range of people including individuals, organisations, companies and developers. As a general rule, it is an essential element of the democratic system that any individual should be able to lobby the council or a Councillor.

Rules of Conduct regarding lobbying

- 7.4 If you are lobbied on matters such as applications made under regulatory powers or matters of a quasi-judicial nature, such as the determination of certain licence applications, and you will have a role in the council's decision on that matter, you must:

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- (a) make it clear that you are not in a position to lend support for or against any such application; and
- (b) direct any such representations, to the appropriate department of the council.

This does not prevent you from seeking factual information about the progress of the case.

7.5 If you are asked to decide on such matters, you must not:

- (a) organise support for a particular recommendation on the matter;
- (b) organise opposition to a particular recommendation on the matter;
- (c) lobby other Councillors about the matter;
- (d) comply with political group decisions on the matter where these differ from your own views; or
- (e) act as an advocate to promote a particular recommendation in relation to the matter.

7.6 Paragraphs 7.4 and 7.5 also apply in relation to individual staffing matters such as the appointment or discipline of employees.

8. RULES RELATING TO DECISION-MAKING

8.1 When participating in meetings or reaching decisions regarding the business of your council, you must:

- (a) do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;
- (b) have regard to any relevant advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;
- (c) take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;
- (d) give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;
- (e) act in accordance with any relevant statutory criteria;
- (f) act fairly and be seen to act fairly;
- (g) ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);
- (h) not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;
- (i) not organise support for, or opposition against, a particular recommendation on the matter being considered;

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- (j) not lobby other Councillors on the matter being considered;
- (k) not comply with political group decisions on the matter being considered, where these differ from your own views; and
- (l) not act as an advocate to promote a particular recommendation in relation to the matter being considered.

9. APPLICATION OF THE CODE OF CONDUCT WITH REGARD TO PLANNING MATTERS

- 9.1 The following section relates to the application of the Code of Conduct in relation to planning matters. This section should be applied in conjunction with the Principles and Rules of the Code.
- 9.2 Care must be taken when dealing with planning matters. All Councillors will have contact with planning issues, either as advocates for or against planning applications, as members of the planning committee, or as members of the full council. Your specific role will vary depending on whether you are on a planning committee or not.
- 9.3 Your role as a Councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to Councillors at all times when involving themselves in the planning process, including taking part in the decision- making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.

Development Management

- 9.4 As a Councillor your involvement in the development management process is crucial. Whether you sit on a planning committee or not, you can encourage developers and others to engage with the council and residents in the planning process. It is important that you represent the needs of your community in discussions with developers. Lobbying is therefore a normal and perfectly proper part of the political process.
- 9.5 However, particular considerations apply if you are a member of the decision- making planning committee, as lobbying can lead to the impartiality and integrity of a Councillor being called into question. Given that a decision on a planning application cannot be made before the planning committee meeting has been held, when all

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relevant information relating to the application is available and has been considered, you must not make public statements about a pending decision or state your intention to vote in a particular way before the committee meeting has taken place. However, other Councillors who are not part of the decision-making process can make representations and address the relevant committee.

- 9.6 It is entirely appropriate for Councillors, including those who will have a decision-making responsibility, to make known to planning officers what representations from constituents and prospective developers they have received on a planning application, to attend public meetings/events and to assist constituents in making their views known to the relevant planning officer. While planning committee members are free to attend public meetings/events they must not express a 'for' or 'against' view by advocating a position in advance of the decision-making meeting.
- 9.7 If you are a member of the planning committee and an approach is made to you by an applicant, agent or other interested party in relation to an existing or proposed planning application, you should restrict yourself to either giving procedural advice (e.g. advising those who are lobbying that they should contact the relevant planning officer so their opinions can be included in the officer's report to the committee) or advise them to write or speak to a member who is not on the planning committee. This does not mean that members who are on planning committees should not listen to the views the lobbyist wishes to express.
- 9.8 If, however, as a planning committee member, you decide you cannot remain impartial and wish to make representations on behalf of constituents or other parties, you may attend a committee meeting and make representations, after which you must leave the room while the members consider it and not take part in the voting.

Decisions contrary to officer recommendation

- 9.9 You must not seek to apply undue pressure towards planning officers to provide a particular recommendation on any planning decision. If you propose, second or support a decision contrary to an officer's recommendation, you must only do so on the basis of sound planning considerations which must fairly and reasonably relate to the application concerned. These considerations include planning policy, landscaping, impact on the neighbourhood, planning history, etc.

Decisions contrary to the local development plan

- 9.10 If you propose, second or support a decision contrary to the development plan, you must only do so on the basis of sound planning considerations, which must fairly and reasonably relate to the application concerned, and you must clearly demonstrate how

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these considerations justify overruling the development plan.

Policy and strategic issues

- 9.11 Councillors have a vital role in facilitating engagement with their communities in the production of planning policy by encouraging them to express their views on the plan-making process. In your key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the council.
- 9.12 Planning legislation requires Councillors of a council to determine all planning applications in accordance with the development plan, unless material considerations indicate otherwise. You must undertake this responsibility without undue influence or personal interest.

Other interests

- 9.13 If you have substantial land, property or other interests which would prevent you from voting on a regular basis, you must not sit on a decision-making committee that deals with planning applications.
- 9.14 You must not act on behalf of, or as an agent for, an applicant for planning permission with the council other than in the course of your professional role which you have registered.
- 9.15 You must not take any further part in the development management process following submission of an application for yourself or for a family member, friend or close personal associate. You have the same rights to explain your proposal to an officer but you must not seek to improperly influence the decision.
- 9.16 If you work as a lobbyist for a developer, you must declare this as an interest and you should not then be involved in any decision-making process relating to or potentially affecting that developer.

Unauthorised development

- 9.17 If you are made aware of an unauthorised development and you refer the matter to the council for possible enforcement action, you must advise all subsequent inquirers to deal directly with the relevant department/officer, and you should not lobby for a particular outcome. This does not prevent you from seeking factual information about the progress of the case.

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9.18 Where you have an interest in the outcome of a planning committee decision on enforcement action, you must disclose that interest and not take part in, or seek to influence, the decision.

<p>Telephone 028 922 500 ext 210 Telephone 028 922 500 ext 210 Fax 028 922 500 ext 210 Email: enforcement@cityofdublin.ie City of Dublin City Hall Dublin 1 Ireland</p>	<p>Telephone 028 922 500 ext 210 Telephone 028 922 500 ext 210 Fax 028 922 500 ext 210 Email: enforcement@cityofdublin.ie City of Dublin City Hall Dublin 1 Ireland</p>
<p>Telephone 028 922 500 ext 210 Telephone 028 922 500 ext 210 Fax 028 922 500 ext 210 Email: enforcement@cityofdublin.ie City of Dublin City Hall Dublin 1 Ireland</p>	<p>Telephone 028 922 500 ext 210 Telephone 028 922 500 ext 210 Fax 028 922 500 ext 210 Email: enforcement@cityofdublin.ie City of Dublin City Hall Dublin 1 Ireland</p>

SOURCES OF GUIDANCE RELATING TO THE CODE

<p><u>The Northern Ireland Commissioner for Complaints</u></p> <p>Telephone: 028 902 33821 Text phone: 028 908 97789 Email: ombudsman@ni-ombudsman.org.uk</p> <p>Via Post: The Ombudsman Freepost BEL 1478 Belfast BT1 6BR OR The Ombudsman 33 Wellington Place Belfast BT1 6HN</p>	<p><u>Equality Commission for Northern Ireland</u></p> <p>Telephone: 028 90 500 600 Textphone: 028 90 500 589 Fax: 028 90 248 687 Email: information@equalityni.org</p> <p>Website: www.equalityni.org Equality House 7 - 9 Shaftesbury Square Belfast BT2 7DP</p>
<p><u>The Department of the Environment</u></p> <p>Local Government Policy Division 1 Causeway Exchange 1-7 Bedford Street Town Parks Belfast, BT2 7EG. Website: www.doeni.gov.uk E-mail: LGPD@doeni.gov.uk Textphone: 028 905 40642</p>	

GLOSSARY

In this Code:

"the 1972 Act" means the Local Government Act (Northern Ireland) 1972;

"the 2014 Act" means the Local Government Act (Northern Ireland) 2014;

"Councillor" for the purposes of this Code means-

- (a) any person who is elected to office within a council,
- (b) any person chosen under section 11(4b) of the Electoral Law Act (Northern Ireland) 1962 to fill a casual vacancy,
- (c) any person treated as a non-voting member by section 21 of the 2014 Act, and (d) any person who is not an elected representative as mentioned in section 32(4) of the 2014 Act;

"council" means the council of a local government district established in accordance with the Local Government(Boundaries) Act (Northern Ireland) 2008⁴;

"Chief Executive", means a person appointed as clerk of a council; and

"meeting" means any meeting-

- (a) of the relevant council or of a committee or sub-committee of the relevant council,
- (b) of the executive of the relevant council or of a committee or sub-committee of the executive of the relevant council,
- (c) of a joint committee or sub-committee of a joint committee which includes the relevant council, or
- (d) where members or officers of the relevant council are present, including circumstances where a member of an executive or officer of the council, acting alone exercises a function of the council.

⁴ Until 31 March 2015, "council" shall also include those councils in place prior to the Local Government Elections of 22 May 2014 and the Code shall apply to the Councillors of those councils.

SANCTIONS APPLIED BY THE COMMISSIONER

Under section 62(3) of the Local Government Act (Northern Ireland) 2014, where the Commissioner decides that a person has failed to comply with the Code, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should

- c. censure the person in such terms as the Commissioner thinks appropriate;
- d. suspend or partially suspend the person from being a Councillor for such a period, and in the way, as the Commissioner thinks appropriate. However, that period shall not exceed one year or, if shorter, the remainder of the person's term of office; or
- e. disqualify the person for being, or becoming (whether by election or otherwise) a Councillor, for such a period as the Commissioner thinks appropriate but not exceeding five years.

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Code of Conduct for Officers

The Code of Conduct for Local Government Employees is inserted below.

Protocol on Member/Officer Relations

The Local Government Employee and Councillor Working Relationship Protocol issued by the Department of the Environment is provided in Appendix 2 inserted below:

CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

1.0 INTRODUCTION

1.1 Status of the Code

Under Article 35(1)(b) of the Local Government (Miscellaneous Provisions) (NI) Order 1992, the functions of the Local Government Staff Commission include:

“establishing and issuing a code of recommended practice as regards conduct of officers of councils”.

This Code has been agreed by the Local Government Reform Joint Forum (Joint Forum) and is promulgated under the authority of the Local Government Staff Commission under Section 40(4) (f) of the Local Government Act (NI) 1972.

It is therefore issued by the Local Government Staff Commission as a statutory recommendation for adoption by all councils and the Staff Commission from 1 April 2015.

It is desirable for the protection of the public and the protection of employees that guidance be given to local government employees as to the conduct expected of them. This Code provides guidance to assist councils and their employees in their day-to-day work and sets out the minimum standards of behaviour expected.

The aim of the Code is to set guidelines for council employees which will help maintain and improve standards and protect employees from criticism or misunderstanding.

2.0 FRAMEWORK FOR THE CODE

The public is entitled to expect the highest standards of conduct from all employees who work for district councils and this Code has been developed in line with best practice.

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The provisions of this Code apply to all staff employed by councils in Northern Ireland and the Local Government Staff Commission (NI) in the performance of their duties on a day-to-day basis including any additional offices to which they may be appointed in their capacity as a district council employee (see Appendix 1, page 18 for a definition of 'employee'/'member of staff').

2.1 National Agreement on Pay and Conditions of Service (the National Agreement)

The basic principle is stated in Part 2 paragraph 2, Key National Provisions of the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service (the National Agreement):

Official Conduct

- a. *Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.*
- b. *Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.*

Similar provisions are incorporated in the National Conditions of Service of Chief Officers.

2.2 Principles of Conduct

This Code builds on, and is in keeping with, the seven principles of public life articulated by the Nolan Committee on Standards in Public Life (established in October 1994) and the five further principles of conduct that have been adopted by the Northern Ireland Assembly, both emphasise that those in public life should practice:

- **Public Duty** - uphold the law and to act on all occasions in accordance with the public trust placed in them and act in the interests of the community as a whole.
- **Selflessness** - act in the public interest at all times and take decisions based solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families, or their friends.
- **Integrity** - not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity** - in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** - are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

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- **Openness** - be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.
- **Honestly** - act honestly. Have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** - promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the public, to ensure the integrity of their council in conducting business.
- **Equality** - promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.
- **Promoting Good Relations** - act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow and that seeks to promote a culture of respect, equality and embrace diversity in all its forms.
- **Respect** - Employees and Councillors are reminded that it is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extended to individuals being subjected to unreasonable and excessive personal attack. They should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Councillors and councils, they should therefore show respect and considerations for others at all times.
- **Good Working Relationships** - Councillors and Employees are servants of the public, and are interdependent upon one another. But their responsibilities are distinct. The working relationship between Councillors and Employees must at all times be professional, courteous and based on mutual respect and trust. Neither party should seek to take unfair advantage of their position. All Councillors and Employees are responsible for ensuring they understand what behaviour is required of them, complying with respective Codes of Conduct. Both share a responsibility for understanding sensitivities and feelings of others and avoiding behaviour that could cause offence or distress.

3.0 CONSULTATION AND IMPLEMENTATION

This Code was drafted and agreed by the Joint Forum in conjunction with the Local Government Staff Commission.

The Code was issued for consultation on 09 July 2014. The Code will be finally revised and issued for implementation with effect from 01 April 2015.

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4.0 MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

4.1 Standards of Behaviour, Impartiality and Conflicts of Interest

Council employees (see Appendix 1, page 18 for a definition of 'employee'/'member of staff') are expected to conduct themselves with integrity and honesty in carrying out their duties and must provide the highest possible standard of service to the public. Where it is part of their duties to provide appropriate advice to Councillors and fellow employees this must be done with impartiality at all times.

Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service (see paragraph 4.14, page 14 - Whistleblowing which provides more detail about an employee's responsibilities in this regard).

Responsibility is placed on every member of staff for disclosing to an appropriate manager or officer of the council every potential conflict of interest in which he/she may be involved.

In general employees' private interests must not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. This includes standards of behaviour outside the working environment and in the use of social media in relation to elected members, fellow officers and the general public.

Employees should not misuse their official position or information acquired in their official duties to further their private interest or those of others.

Employees must report to the appropriate manager any impropriety or breach of the terms of this Code.

4.2 Disclosure of Information

The law requires that certain types of information must be available to members, auditors, government departments, service users and the public (see Appendix 1, page 15 for examples). The Council itself may also decide to be open about other types of information.

The Council should therefore make clear to employees:

- the types of information which must be made available, and to whom;
- the types of information which the Council has voluntarily made open, and to whom;
- the types of information which the Council does not wish to be disclosed without

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specific permission.

The law also requires that personal information held about individuals must be treated in accordance with the Data Protection Act 1998. Employees must ensure that they process data lawfully in accordance with the data protection principles. The Freedom of Information Act 2000 also gives a right of access to information held by public authorities in accordance with the provisions of the authority's publication scheme.

Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

Any particular information received by an employee from a Councillor which is personal to the Councillor and does not belong to the council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

4.3 Political Neutrality

Employees serve the Council as a whole. They must serve all Councillors and not just those of a particular group and must ensure that the individual rights of all Councillors are respected.

Subject to individual Councils' conventions, employees may be required to advise political groups. In the provision of such advice employees should not compromise their political neutrality. Any advice given should be available to all political groups, if requested.

All employees must follow all lawful policies of the Council and must not let their own personal or political opinions interfere with their work. While the Council recognises and respects the rights of all employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest for their role within the Council. This does not compromise an officer's rights in relation to collective trade union representation engagement in lawful trade union activity.

Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

4.4 Potential Conflict of Interest Situations

As specified in paragraph 4.1, page 4 - Standards of Behaviour, Impartiality and

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Conflicts of Interest, staff are expected to conduct themselves with integrity, impartiality and honesty and their private interests should not be such as to have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute. In particular attention is drawn to the following examples of situations where potential conflicts of interest can occur.

Relationships with Councillors

Employees are responsible to the Council through its senior managers and in many cases in carrying out their duties they also give advice to Councillors. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage this relationship and prove embarrassing to other employees and Councillors and should therefore be avoided (see paragraph 4.1, page 4 - *Standards of Behaviour, Impartiality and Conflicts of Interest*, in relation to disclosing every potential conflict of interest).

Employees should deal with Councillors in a polite and efficient manner. They should not approach nor attempt to influence Councillors out of personal motives and should report to an appropriate manager if a Councillor attempts to pressurise them to deal with a matter outside of Council procedure or policy.

This does not compromise an employee's rights as a ratepayer to access and/or question the provision of Council services to them through open and transparent Council procedures.

Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

Further advice and guidance is given in the Local Government Employee and Councillor Working Relationship Protocol attached at Appendix 2, page 19.

Contact with the Community and Service Users

The community and service users have a right to expect a high standard of service from the Council. Employees have a responsibility to the community they serve and should, ensure courteous, effective and impartial service delivery to all groups and individuals within the community. Employees should always try to be positive, constructive and inclusive. When necessary make extra efforts to communicate with people with disabilities in accordance with the provisions of the Disability Discrimination Act 1995.

No part of the community or service users should be discriminated against.

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Relationships with Contractors, Planning Applicants and those applying for Council Grant

All relationships with external contractors or potential contractors or applicants for planning consent or grant must be made known to the appropriate manager. Similarly any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager.

Orders and contracts, grants and planning decisions must be decided on merit and no special favour should be shown in the procurement process to any businesses or potential suppliers 136 particularly those run by, for example, friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 15 for a definition of 'family relationship').

Employees who deal with, engage or supervise contractors or process or determine applications under delegated powers with whom they have previously had, or currently have, a relationship in a private or domestic capacity, should declare that relationship to the appropriate manager as soon as they are aware.

Employees must not accept money or any other reward from any organisation, body or individual who may benefit from work or funding provided by the council. To do so would, in law, be corrupt.

Bribery & Corruption

Under the Bribery Act 2010 it is a serious criminal offence to:

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly.
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly.
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

4.5 Appointments and Other Employment Matters

Employees involved in appointments should at all times act in accordance with the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures).

The Code of Procedures at Part D, Stage 2 – Conflict of Interest, page D:52 states:

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"Responsibility is placed on every panel member to disclose to an appropriate manager or officer of the council where potential conflict of interest may be present, for example partners or persons where a family relationship is deemed to exist, or if an individual has agreed to act as a referee for an applicant"

and

"Where a potential conflict of interest exists, the issue is not about satisfying the conscience of the individual. Public perceptions and also those of other candidates must be considered and, in such cases, it may be appropriate for the individual to withdraw from the recruitment exercise."

Similarly, employees should not be involved in decisions in relation to discipline, promotion or pay adjustments for any other employee who is a friend, a person to whom the employee owes (or is owed) an obligation, partner or person where a family relationship is deemed to exist (see Appendix 1, page 15 for a definition of 'family relationship'). For further examples of Potential Categories of Interests see Appendix 1, page 16 which are based on the relevant section in the Northern Ireland Local Government Code of Conduct for Councillors - www.doeni.gov.uk/index/local_government/code_of_conduct.htm

4.6 Outside Commitments

An employee must not subordinate his/her duty to the Council to his/her private interests or put himself/herself in a position where duty and private interests conflict. The Council should not attempt to preclude officers from undertaking additional employment outside their hours of duty with the Council, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

Employees should devote their whole-time service to the work of their Council and shall not engage in any other business or take up any other additional appointment without the express consent of the Council. Where an officer wishes to engage in other business or take up additional appointment/s he/she must seek the permission of the Council and act at all times in accordance any contractual obligations in this respect.

Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.

Employers and employees of councils should be aware of their responsibilities under the European Working Time Directive.

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4.7 Personal Interests

Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest. Employees must declare to an appropriate manager any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- membership of an organisation receiving grant aid from the council.
- membership of an organisation or pressure group which may seek to influence the Council's policies.
- membership of an organisation which may seek to influence the performance of an employee in carrying out their duties.
- having a beneficial interest in land which is within the Council's district and is subject to any planning application.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to their line manager.

The Council recognises and respects the right of all employees to become members of organisations. It only requires that employees declare personal interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation.

4.8 Equality Issues

All members of the community, customers and employees have a right to be treated with fairness and equity.

In this regard employees must:

- be made aware of their obligations under Section 75 of the Northern Ireland Act 1998 and relevant equality law (see Appendix 1, paragraph 4, page 18);
- co-operate with the Council in the application of any policies agreed by the Council relating to equality issues;
- not take discriminatory action or decisions or encourage or put pressure on fellow employees to take discriminatory action or decisions;
- report any concerns about discriminatory conduct to their line manager or other appropriate employee.

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4.9 Separation of Roles During Procurement

Employees involved in the procurement process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. All employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub- contractors. Employees who are privy to confidential information relating to the tendering process should not disclose that information to any unauthorised party or organisation.

Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding process.

Employees should ensure that in awarding contracts, no special favour is shown to current or recent former employees or their friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 15 for a definition of 'family relationship') to businesses run by them or employing them in a senior or relevant managerial capacity.

4.10 Fraud and Corruption

Employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained (see paragraph 4.12 below for guidance on Hospitality and Gifts).

4.11 Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

4.12 Hospitality and Gifts

Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when they are part of the life of the community or where the Council should be seen to be represented. They must be

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properly authorised and recorded in accordance with the Council's agreed procedure.

When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.

Employees should not accept significant personal gifts from contractors, members of the public and outside suppliers, although the Council may wish to allow employees to keep items of token value such as pens, diaries etc.

When considering whether or not to accept authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality, for instance during a tendering period of a contract for which the provider may be bidding.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where:

- it is clear that the hospitality is corporate rather than personal;
- where the Council consents in advance;

or

- where the Council is satisfied that any procurement decisions are not compromised.

Where a visit is necessary, to inspect equipment for example, the Council should consider meeting the cost of the visit to avoid jeopardising the integrity of the Council in subsequent procurement decisions.

4.13 Sponsorship - Giving and Receiving

Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service neither an employee nor any friends, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 15 for a definition of 'family relationship') must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.

Similarly, where the Council through sponsorship, grant aid, financial or other means,

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gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

4.14 Whistleblowing

If an employee becomes aware of activities which he/she believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the Council's confidential reporting procedure, or any other procedure designed for this purpose.

4.15 Breaches of the Code of Conduct

Any breach by an employee of any part of the Code of Conduct or its supporting policies and guidance may render the employee liable to disciplinary proceedings. It should be noted that a breach of the Code and its supporting policies and guidance will be subject to the provisions of the council's disciplinary or other related procedures.

Appendix 1

LEGAL AND OTHER PROVISIONS RELATING TO THE CODE OF CONDUCT

1. Disclosure of Information (paragraph 4.2, page 5)

Data Protection Act 1998.

Freedom of Information Act 2000.

Part 8, sections 42-52 of the Local Government Act (Northern Ireland) 2014 deals with Access to meetings and Documents.

Obligations of Discovery in connection with litigation.

2. Potential Conflict of Interest Situations (paragraph 4.4, page 6)

Persons who owe you an obligation, or to whom you owe an obligation – this might include a debtor, creditor, fellow member of an organisation.

Very close personal relationships may also create a conflict, e.g. a good friend.

Family Relationship

Stage 2 - Composition of Panels paragraph entitled Canvassing on page D:50 of the Local Government Staff Commission's Code of Procedures on Recruitment and

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Selection (Code of Procedures) states that a relevant family relationship is deemed to exist between a Council officer and/or member and the person (i.e. the contractor, potential contractor, partner in a business etc.) if they are husband or wife, or partner (civil or otherwise), or if the person is the:

- parent
- son or daughter
- brother or sister
- uncle or aunt
- nephew or niece
- grandparent
- grandson or grand-daughter
- foster child or foster parent
- dependant

of the Council officer or member, or of the spouse or partner (whether civil or otherwise) of the Council officer or member.

For the purposes of potential conflicts of interest, as outlined in this Code, this definition is extended to cover partner relationships.

Potential Categories of Interest

Examples of potential Categories of Interest based on the Northern Ireland Local Government Code of Conduct for Councillors, May 2014 (see paragraph 5.2) are:-

- (a) any employment or business carried on by you;
- (b) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated or non- remunerated director;
- (c) any person, other than your council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a Councillor;
- (d) any corporate body which has a place of business or land within your council's district, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) any contract for goods, services or works made between your council and you or a firm in which you are a partner, an unincorporated body (i.e. Industrial & Provident Society), a company of which you are a remunerated director, or a body of the description specified in sub- paragraph (d) above;
- (f) any land in which you have a beneficial interest and which is within your

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- council's district;
- (g) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (d) above;
 - (h) any body to which you have been elected, appointed or nominated by your council; any -
 - (i) public authority or body exercising functions of a public nature;
 - (ii) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (iii) body whose principal purposes include the influence of public opinion or policy;
 - (iv) professional association; or
 - (v) private club, society or association operating within your council's district, in which you have membership or hold a position of general control or management; and
 - (i) any land within your council's district in which you have a licence (alone or jointly with others) to occupy for 28 days or longer).

3. Appointments and Other Employment Matters (paragraph 4.5, page 9)

Code of Procedures on Recruitment and Selection

Part B - General Principles Underpinning the Code (on page 4) recommends actions to ensure that appointments are made under the merit principle.

Section 41 of Local Government Act (NI) 1972 deals with appointments to councils.

4. Equality Issues (paragraph 4.8, page 11)

Legislation

- a. The Employment Equality (Sexual Orientation) Regulations (NI) 2003
- b. The Employment Equality Age Regulations (NI) 2006 143
- c. Sex Discrimination (NI) Order 1976
- d. Fair Employment and Treatment (NI) Order 1998
- e. Disability Discrimination Act 1995
- f. Race Relations (NI) Order 1997
- g. Rehabilitation of Offenders (NI) Order 1978 and Exceptions Order 1979
- h. Equal Pay Act (Northern Ireland) 1970
- i. Part-Time Workers (Prevention of Less Favourable Treatment) Regulations

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- (Northern Ireland) 2000
- j. Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002
- k. Parental Rights and Flexible Working under the Employment Rights (Northern Ireland) Order 1996
- l. Northern Ireland Act 1998
- m. Human Rights Act 1998

5. Fraud and Corruption (paragraph 4.10, page 12)

Section 46 of Local Government Act (NI) 1972 deals with the declaration of interest where an employee has a pecuniary interest and with recording of such interests. Not to do so will be an offence.

Section 47 of the Local Government Act (NI) 1972 forbids employees to accept payment apart from their salary/wage.

KEY TERMS USED IN THE CODE OF CONDUCT

Employee/s or Member/s of Staff

The terms employee/s or member/s of staff should be taken to mean any individual/s employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Code also applies to seasonal and casual staff, agency works and volunteers while they are engaged in carrying out duties for the council.

Local Government Employee and Councillor Working Relationship Protocol

1.0 Introduction

- 1.1 The Local Government Act (Northern Ireland) 2014 (the 2014 Act) creates a new environment for Local Government in Northern Ireland. The 2014 Act includes a new ethical framework for local government, a key element of which is the introduction of a mandatory Code of Conduct for Councillors.
- 1.2 The 2014 Act imposes a mandatory requirement for Councillors to observe the Northern Ireland Local Government Code of Conduct for Councillors (the Councillor Code), which establishes mechanisms for the investigation and adjudication of complaints and for appeals. With the exception of Part 9 (Planning), the Code came into force on 28 May 2014 the Part of the Code which deals with planning will come into effect from 1 April 2015.
- 1.3 The Local Government Staff Commission for Northern Ireland is responsible for issuing the Code of Conduct for Local Government Employees (2004) (the Employee Code). In conjunction with the Local Government Reform Joint Forum, the Commission has prepared a revised Code of Conduct for Local Government Employees due to come into effect from 1 April 2015.
- 1.4 Local Government has already established policies and procedures to resolve issues that Employees (for the purpose of this protocol the term 'Employees' or members of staff should be taken to mean any individual employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Protocol also applies to seasonal and casual staff, agency workers and volunteers while they are engaged in carrying out duties for the council), may encounter in the workplace. This protocol does not override any existing Employee policies or legal obligations but seeks to clarify the expected working relationship between Councillors and Employees.

2.0 Purpose

- 2.1 The protocol is intended to set out the working relationship between Councillors and Employees of councils. It relates to all aspects of the working environment, both physical and virtual. The protocol also advises of the steps to be taken to deal with concerns at an early stage to reduce negative impacts upon Councillors or Employees and ensure the prompt resolution of any difficulties which may arise. All issues raised under the remit of this protocol must be dealt with in the strictest confidence.

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- 2.2 The protocol should also assist in furthering and developing a harmonious working environment with positive, constructive and professional relationships between Employees and Councillors.
- 2.3 The protocol reflects the content of both Employee and Councillor Codes of Conduct that demand the highest standards of personal conduct at all times. It upholds the seven Nolan Principles and the additional principles of public life:-

- **Public Duty** - have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them; to act in the interests of the community as a whole.
- **Selflessness** - should act in the public interest at all times and should take decisions solely in terms of the public interest. They should not act in order to gain financial or other material benefits for themselves, their family, friends or associates.
- **Integrity** - should not place themselves under any financial or other obligation to outside individuals or organisations, which might reasonably be thought by others to influence them in the performance of their duties.
- **Objectivity** - in carrying out public business, including considering public appointments, awarding contracts, or recommending individuals for rewards and benefits, they should make choices on merit.
- **Accountability** - are accountable to the public for their decisions and actions and for the way that they carry out their responsibilities and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** - should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions when required and restrict information only when the wider public interest clearly demands it.
- **Honesty** - should act honestly. They have a duty to declare any private interests relating to their public duties and should take steps to resolve any conflicts between their private interests and public duties at once and in a way that protects the public interest.
- **Leadership** - should promote and support these principles by leadership and example in order to establish and maintain the trust and confidence of the public, to ensure the integrity of their council in conducting business.
- **Equality** - should promote equality of opportunity and not discriminate against any person by treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.
- **Promoting Good Relations** - should act in a way that is conducive to promoting good relations by providing a positive example for the wider community to follow and that seeks to promote a culture of respect, equality and embrace diversity in all its forms.

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- **Respect** - Employees and Councillors are reminded that it is acknowledged that the exchange of ideas and opinions on policies may be robust but this should be kept in context and not extended to individuals being subjected to unreasonable and excessive personal attack. They should keep in mind that rude and offensive behaviour may lower the public's regard for, and confidence in, Employees, Councillors and councils, they should therefore show respect and consideration for others at all times.
- **Good Working Relationships** - Councillors and Employees are servants of the public, and are interdependent upon one another. But their responsibilities are distinct. Employees are ultimately responsible to the Chief Executive⁵; Councillors are responsible to the electorate. The working relationship between Councillors and Employees must at all times be professional, courteous and based on mutual respect and trust. Neither party should seek to take unfair advantage of their position. All Councillors and Employees are responsible for ensuring they understand what behaviour is required of them, complying with respective Codes of Conduct. Both share a responsibility for understanding sensitivities and feelings of others and avoiding behaviour that could cause offence or distress.

3.0 Conduct of Local Government Employees towards Councillors

- 3.1 Employees must treat all political groups and individual Councillors equally, fairly and remain politically neutral at all times. Employees will provide professional, impartial and effective support, to enable Councillors to fulfil their role, in and on behalf of, the council. Employees will not seek to influence or lobby a Councillor with regards to personal issues.
- 3.2 It is important that there should be good working relationships between senior council employees and Chairs of Committees / Mayors. However such relationships should not be allowed to become so close as to cast doubt either on an officer's ability to deal impartially with other Councillors, or the Chair/Mayor's ability to deal impartially with other employees.

4.0 Procedure

- 4.1 In the event that a Councillor wishes to raise either an informal or formal complaint regarding the conduct or behaviour of an Employee, the following process should be followed:

⁵ [1 A Chief Executive is also an employee and is ultimately responsible to the Council]

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Informal Approach

- 4.2 A Councillor should seek to raise the matter in the first instance with the relevant Head of Service or Director who should seek to resolve the matter with the Employee concerned. The Councillor must not engage directly with the Employee, nor make any attempt to reprimand or discipline the Employee.
- 4.3 If the matter is about the conduct of an Employee at Head of Service or Director level, the Councillor should address their concern to the Chief Executive.
- 4.4 The Head of Service/Director/Chief Executive will undertake to resolve the matter through discussions with the Employee concerned and report on the outcome to the Councillor.

Formal Approach

- 4.5 If the Councillor is unhappy with the outcome of the informal approach or considers the initial complaint to be of a serious nature, they should raise the matter with the relevant Head of Service or Director and make their Party Group Leader, if relevant, aware of the complaint.
- 4.6 The relevant Head of Service/Director (or Chief Executive if applicable), will ensure the matter is investigated according to the relevant council procedures consulting with appropriate human resource sections.
- 4.7 The outcome of the investigation may result in:-
 - no further action being required,
 - a verbal or written apology to the Councillor with an acknowledgement by the Employee that their conduct failed to meet the agreed standard and an undertaking that there will be no recurrence or
 - referral for consideration under the council's disciplinary procedure.
- 4.8 The Head of Service/Director (or Chief Executive if applicable), will write to the Councillor and Group Party Leader, if relevant, advising of the outcome.
- 4.9 The Employee will be informed in accordance with the relevant council procedures.
- 4.10 If the complaint is in relation to the Chief Executive the procedures specified in the Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities or the appropriate mechanism at that time will be followed.

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5.0 Conduct of Councillors towards Employees

- 5.1 Councillors' engagement with Employees must be equitable, reasonable, courteous and respectful and ensure that the impartiality of Employees is not compromised. Councillors must abide by their Code and their council's standing orders.

Procedure

- 5.2 In the event that an Employee wishes to raise either an informal or formal complaint regarding the conduct or behaviour of a Councillor, the appropriate support must be provided by their respective line manager and the following procedure should be followed:

Informal Approach

- 5.3 An Employee should seek to raise the matter in the first instance with their relevant Head of Service or Director, providing details of the incident that has occurred. The Employee must not engage directly with the Councillor. If necessary, the Head of Service or Director may involve the Group Party Leader, if relevant.
- 5.4 The Head of Service or Director will undertake to resolve the matter through discussions with the Councillor concerned and report on the outcome to the Employee and the Chief Executive.

Formal Approach

- 5.5 If the Employee is unhappy with the outcome of the informal approach or considers their complaint to be of a serious nature, they may wish to consult with their recognised Trade Union representative, if applicable prior to raising the matter formally (verbally or in writing) with the relevant Head of Service or Director. The Employee and their representative may also raise the complaint directly with the senior Human Resource Employee in the Council.
- 5.6 The relevant Head of Service/ Director, (or senior HR Employee if applicable), will ensure the matter is investigated according to the appropriate council investigatory process.
- 5.7 The Councillor and Party Group Leader, if relevant, will be advised of the complaint and should agree to co-operate with the investigation to establish the facts.
- 5.8 The outcome of the investigation may result in:-

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- no further action being required, or
- a verbal or written apology to the Employee with an acknowledgement by the Councillor that their conduct failed to meet the agreed standards and an undertaking that there will be no recurrence.

5.9 If the Head of Service/Director (or senior HR Employee), considers that the circumstances of the complaint is sufficiently serious or a pattern of behaviour emerges, they may recommend to the Chief Executive that the matter is raised at a formal meeting with the Party Group Leader, if relevant. The minutes of this meeting should be presented to the appropriate governance committee for consideration.

5.10 The Head of Service/ Director (or senior HR Employee), will write to the Employee (and where appropriate their recognised Trade Union representative) advising of the outcome. If the Employee is unhappy with the outcome, they may request that their complaint be reviewed by the Chief Executive. The Chief Executive will review the complaint and advise the Employee (and their Trade Union representative) of their decision.

5.11 The Councillor and the Group Party Leader, if relevant, will be informed in writing of the outcome of the investigation and consideration of further action.

(To note: This protocol does not preclude an employee, at anytime, if they think it necessary, to write to the Commissioner for Complaints setting out how, in their opinion, a Councillor has breached the Code).

This protocol is the interface between current Councillor and Employee Codes of Conduct, which require the highest standards of personal conduct, including activities

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Part 5 – Members’ Allowance Scheme

Derry City and Strabane District Council Scheme of Allowances Payable to Councillors from 1 April 2015

This Scheme is made under the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012.

Definitions

In this scheme ‘approved duty’ and committee member are as defined in the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012.

Commencement Date

This scheme of allowances shall be operational from 1 April 2015.

Basic Allowance

An annual basic allowance of £14,200 shall be paid to each councillor. Where applicable this will be paid pro-rata.

An additional allowance of up to £15 per month is payable for the provision of broadband services for business use (includes line rental). This payment will be payable on receipt of evidence of a current broadband contract.

Special Responsibility Allowance

A special responsibility allowance shall be paid to those councillors who hold the special responsibilities specified in Schedule 1.

The amount of allowance shall be the amount specified against that special responsibility in the Schedule. The allowance is only payable whilst the councillor is carrying out that duty.

At any time, only one special responsibility allowance will be paid to a councillor.

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Type of Vehicle	Rate per Mile
A pedal cycle	20.0p
A solo motor cycle of cylinder capacity not exceeding 149cc	11.4p
A solo motor cycle of cylinder capacity exceeding 149cc but not exceeding 499cc	16.5p
A solo motor cycle of cylinder capacity exceeding 499cc or a motor cycle with side car	22.0p
A motor car of cylinder capacity not exceeding 450cc	22.0p
A motor car of cylinder capacity exceeding 450cc but not exceeding 999cc	46.9p *13.7p
A motor car of cylinder capacity exceeding 999cc but not exceeding 1,199cc	52.2p *14.4p
A motor car of cylinder capacity exceeding 1,199cc	65.0p *16.4p
Passenger rate	5.0p

*For mileage above 8,500 miles

The rates of subsistence shall be as shown in the table below.

Period/Meal	Rates	
	British Isles £	London £
Overnight allowance - An absence involving an overnight stay, away from the normal place of residence. This rate does not include any meal allowance.	100.70	122.45
Breakfast allowance - (more than 4 hours away from the normal place of residence or, where approved by the council, a lesser period before 11 am)	11.50	
Lunch allowance - (more than 4 hours away from the normal place of residence or, where approved by the council, a lesser period including the period between 12 noon and 2pm)	13.50	
Tea allowance - (more than 4 hours away from the normal place of residence or, where approved by the council, a lesser period including the period between 3pm and 6pm)	4.70	

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Evening meal allowance - (more than 4 hours away from the normal place of residence or, where approved by the council, a lesser period ending after 7pm)	20.95
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General

This scheme may be revoked or amended at any time.

The amounts stated in paragraphs 3-5 will be subject to any indexing increase during the year.

The amounts stated in paragraph 6 will be subject to any increase to the minimum wage for 21.

Claims and Payment

Payments regarding basic allowance and special responsibility allowance shall be made in instalments of one-twelfth of the amount specified in this scheme on the third last working day of each month.

Claims for dependants' carers' allowance, travelling allowance or subsistence allowance should be made in writing within three months, and should be accompanied by receipts, where appropriate.

SCHEDULE 1 to the Scheme of Allowances

The following table provides details of the Council's duties which attract a Special Responsibility Allowance and the associated allowance amount.

Special Responsibility	Special Responsibility Allowance Rate (£)
Chair of Governance and Strategic Planning Committee	£8050
Vice Chair of Governance and Strategic Planning Committee	£3100
Chair of Planning Committee	£8050
Vice Chair Planning Committee	£3100

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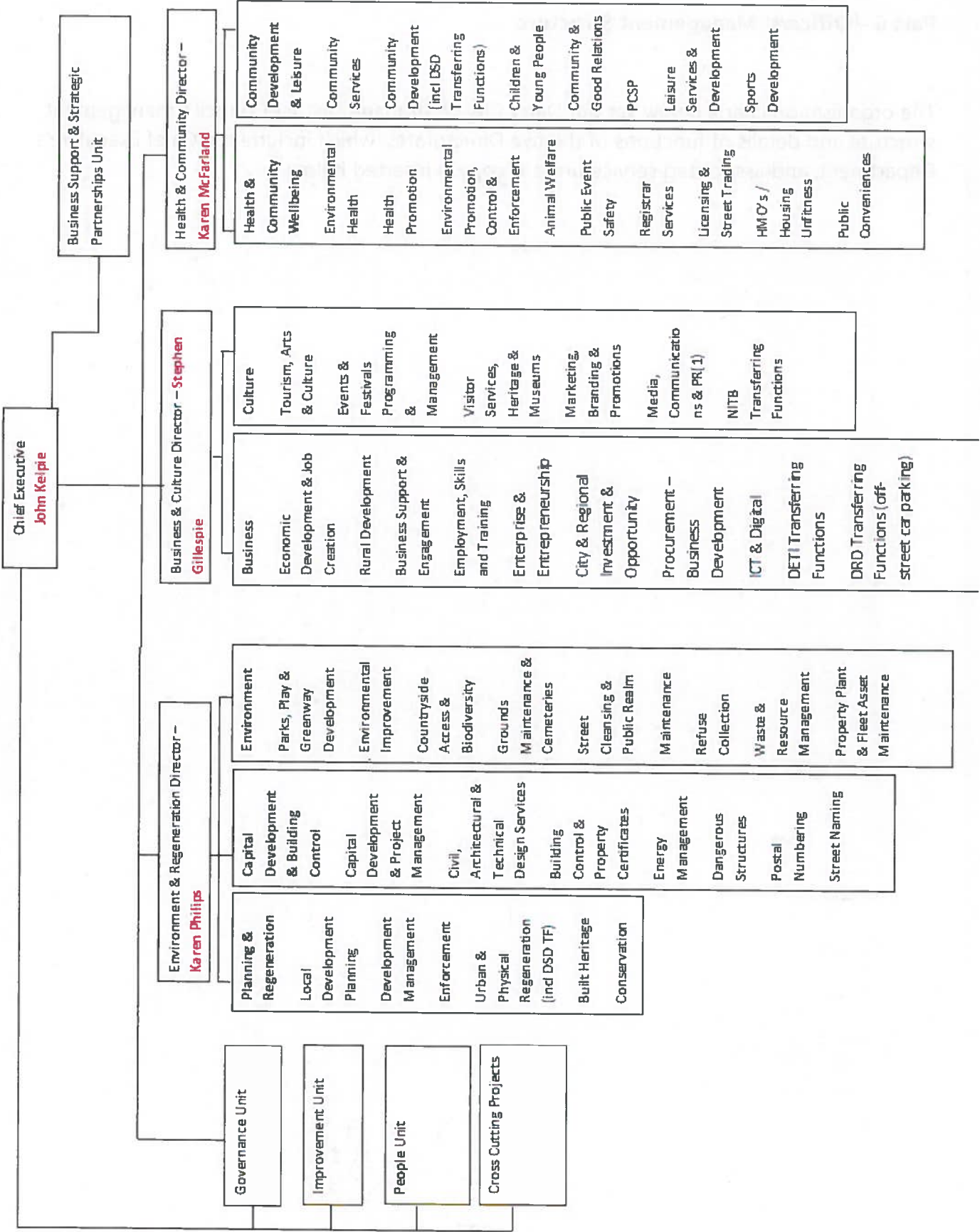
Chair of Assurance, Audit & Risk Committee	£8050
Vice Chair of Assurance, Audit & Risk Committee	£3100
Chair of Business & Culture Committee	£8050
Vice Chair Business & Culture Committee	£3100
Chair of Environment & Regeneration Committee	£8050
Vice Chair Environment & Regeneration Committee	£3100
Chair of Health & Community Committee	£8050
Vice Chair Health & Community Committee	£3100
Partnership Panel Representative	£3100
NI Housing Council Representative	-
Reserve Forces & Cadets Association Representative	-
PCSP members	-

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Part 6 – Officers' Management Structure

The organisation charts below set out Derry City & Strabane District Council's management structure and details of functions of the five Directorates, which include the Chief Executive's Department, and associated service units. A copy is inserted below.





Chief Executive
John Keipie

Business Support & Strategic Partnerships Unit

Business & Culture Director - **Stephen Gillespie**

Environment & Regeneration Director - **Karen Philips**

Health & Community Director - **Karen McFarland**

Governance Unit

Improvement Unit

People Unit

Cross Cutting Projects

Business
Economic Development & Job Creation
Rural Development
Business Support & Engagement
Employment, Skills and Training
Enterprise & Entrepreneurship

City & Regional Investment & Opportunity
Procurement - Business Development
ICT & Digital
DETI Transferring Functions
DRD Transferring Functions (off-street car parking)

Culture
Tourism, Arts & Culture
Events & Festivals
Programming & Management
Visitor Services, Heritage & Museums

Marketing, Branding & Promotions
Media, Communications & PR(1)
NITB
Transferring Functions

Environment
Parks, Play & Greenway Development
Environmental Improvement
Countryside Access & Biodiversity

Grounds Maintenance & Cemeteries
Street Cleansing & Public Realm
Maintenance
Refuse Collection
Waste & Resource Management
Property Plant & Fleet Asset Maintenance

Capital Development & Building Control
Capital Development & Project Management
Civil, Architectural & Technical Design Services

Building Control & Property Certificates
Energy Management
Dangerous Structures
Postal Numbering
Street Naming

Planning & Regeneration
Local Development Planning
Development Management
Enforcement

Urban & Physical Regeneration (incl DSD TF)
Built Heritage Conservation

Health & Community Wellbeing
Environmental Health
Health Promotion
Environmental Promotion, Control & Enforcement

Animal Welfare
Public Event Safety
Registrar Services
Licensing & Street Trading
HM O's / Housing Unfitness
Public Conveniences

Community Development & Leisure
Community Services
Community Development (incl DSD Transferring Functions)
Children & Young People

Community & Good Relations
PCSP
Leisure Services & Development
Sports Development