



# CONSTITUTION

## **Adopted at the Meeting of the Council on 4 October 2022**

|                                   |                       |
|-----------------------------------|-----------------------|
| VERSION NUMBER V1                 | V1                    |
| DATE & MINUTE REFERENCE (Council) | FC 04.10.22 item 81.5 |
| DATE OF NEXT REVIEW               | May 2024              |

## **INTRODUCTION**

Local councils, unlike principal authorities are not required by law to adopt a constitution, however they do need to adopt Financial Regulations and to have other governing documents such as Standing Orders, a Member Code of Conduct and a Publication Scheme.

Neston Town Council have resolved to voluntarily adopt a constitution which contains the statutory governance documents it needs to publish, as well as a number of other policies which represent best practice and will help to make its dealings more transparent to local people and businesses. Its purpose is to enable our communities to understand how their Town is being governed and how they can become involved in decision making.

This first Constitution brings together all Council policies and Governance documents in one place. It contains a number of constituent parts already adopted by Council, as set out in the Index.

As you look down the contents page, you may see some gaps. This is because the Council is gradually reviewing and revising its governance documents and adding policies as they are developed.

You will find more details about the Council, its services, operations and services on our website, [neston.org.uk](http://neston.org.uk).

**The Constitution also serves as a handbook for Councillors.**

**You will find the documents listed in pdf format below, on the Council's website.**

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| <b>Governance</b>  |                   |
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| Financial Regulations ( <a href="#">current 4<sup>th</sup> May 2021</a> )    | 04.10.22          |
| Standing Orders for Contracts  | 04.10.22          |
| Corporate Strategy   | 04.10.22          |
| Delivery Plan  | Under Preparation |
| Budget <b>2021/22</b>  | January 2021      |
| Budget <b>2022/23</b>  | 25.01.22          |
| Medium Term Financial Plan   | Being developed   |
| Committee Structure  | 17.05.22          |
| Management Structure   | May 2022          |
| Employee Handbook & Human Resources Policies                                 | 2021              |
| Publication Scheme   | 17.05.22          |
| Publication Scheme Information Guide   | 17.05.22          |
| Neighbourhood Plan 2010-2030   | March 2016        |
| <b>Committee terms of Reference and Delegation</b>                           |                   |
| Council  | To be developed   |
| Finance and Administration Committee   | 17.05.22          |
| Community & Environment Committee  | 26.07.22          |
| Human Resources Committee  | 17.05.22          |
| Market and Town Hall Committee   | 17.05.22          |
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| Appeals Committee  | Being developed   |
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| Planning Protocol  | 28.06.22          |
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| Code of Practice relating to emails  | 2016              |
| <b>Council Policies:</b>   |                   |
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| Business Continuity Plan   | Being developed   |
| Cash & Payment Handling Policy and Procedure                                 | 22.02.19          |
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| Community Events Donations Policy  | 28.01.20          |
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| Data Protection and Document Retention Policy                                | 08.02.22          |
| Data Breach Notification Policy  | 17.07.18          |
| Data Protection Policy   | 17.07.18          |
| Devolution of Services Template  | 17.05.16          |
| Digital & IT Policy  | To be developed   |
| Dignity at Work Policy   | Being Developed   |
| Equality and Diversity Policy  | April 2017        |

|   |   |
|---|---|
| Emergency Plan  | To be developed                                   |
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| Flag Flying Policy  | 04.10.22  |
| Grants Policy   | 01.03.22  |
| Guest wi-fi Policy  | not dated   |
| Health and Safety Policy  | July 2021   |
| Hire of Council Property Policy   | 12.02.19  |
| Information & Data Protection Policy                                      | Being developed to replace Data Protection Policy |
| Information Security Policy   | 27.11.18  |
| IT Policy   | 24.10.17  |
| Internet, email and Social Media Policy                                   | 23.02.21  |
| Modern Slavery Transparency Policy  | 24.01.19  |
| Mobile Phone Policy (Staff Handbook)                                      | 18.09.18  |
| Pensions Discretion Policy  | 31.05.22  |
| Performance Management Policy   | 22.05.22  |
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| Planning Policy-General Principles  | To be developed                                   |
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| Social Media Policy   | 27.01.22  |
| Statement of Community Engagement   | 20.02.19  |
| Street Naming Policy  | To be developed                                   |
| Subject Access Policy & Checklist.  | 17.07.18  |
| Subject Access Complaints Policy.   | 15.02.2022  |
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| Value for Money   | Being Developed                                   |
| Engagement Environment and Climate Change                                 | Being Developed                                   |
| Leadership in planning for the future of the community                    | Being Developed                                   |
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| Managing the Performance of individual Staff members                      | Being Developed                                   |
| <b>Data Protection</b>  |   |
| Data Privacy Notice-General   | March 2018  |
| Data Privacy Notice-Staff   | February 2018                                     |
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## **SUMMARY AND EXPLANATION**

### **BACKGROUND – LOCAL GOVERNMENT**

Before considering the detail of how Neston Town Council operates, it is useful to consider briefly where local government has come from, how it is changing and where the Town Council fits in.

In Britain, there is no codified constitutional document setting out the rights and responsibilities of local authorities and their relationship with national government. Instead, there is a set of institutions and practices, some centuries old, that have been created and adopted in response to changing circumstances and which have gradually been given a statutory framework.

Local government is in the public sector, but is not a local civil service. It is political in nature because the people that determine its direction are democratically elected by local people. Central government, however, has the capacity to direct and regulate councils through legislation and fiscal means. Local government is first and foremost a people business and service to the community is the cornerstone of its activity.

Local government in England is a mixture of single- and two-tier principal authorities and local councils. County councils and district councils (sometimes called borough councils) have a split responsibility for service provision, a situation which still exists in many counties such as Staffordshire. Metropolitan and unitary authorities in some other parts of the Country are all purpose, which is the case in Cheshire, with Cheshire West and Cheshire Council being the unitary authority, which includes Neston parish. The term "local council" means a parish or town council. They are, like all councils an elected corporate body, but have a far more limited range of duties and powers than the principal councils but are directly elected and independent. (see Good Councillors' Guide 2018). Neston Town Council is the most local form of government and therefore plays a vital role at the community interface.

Local government traditionally can only do what it is empowered to do by statute, other acts are "ultra vires" (beyond the power of) which is the reverse of the position of an individual who can do anything which is not restricted by law. This position was widened for principal authorities and qualifying local councils by the provisions of the Localism Act 2011, which introduced a General Power of Competence. In brief, this provides for a principal council or qualifying local council to have the power to do anything that individuals generally may do but with certain limitations. Neston Town Council is currently eligible and has adopted this general power of competence. It is the power of first reserve and it undertakes most of its duties and services under this power, but uses specific powers under other legislation when required.

### **NESTON TOWN COUNCIL-HISTORY SUMMARY**

In 2003, the committee of Neston Civic Society decided that the town of Neston would have greater influence with the then Borough Council of Ellesmere Port and Neston if it had a single representative voice expressed through a parish or town council. This led the Civic Society to contact the Cheshire Association of Local Councils to discuss the steps needed to establish a local council.

On 15 September 2005, the Civic Society organised a public meeting at Parkgate & Neston United Reformed Church. Almost 100 local residents attended the meeting

following which volunteers collected 2,530 signatures from electors on a petition for a parish council. This amounted to over 20% of electors, well above the 10% required.

The area proposed was the built-up area of Neston from Parkgate to Ness. In January 2006, Neston Civic Society delivered the petition to the then Ellesmere Port and Neston Borough Council (now Cheshire West & Chester Council). In response they decided to send a leaflet to each household (not to each elector) asking for their response, pointing out that a Parish/Town Council would have to be paid for from the Council tax precept and would add an extra tier of government. Of the ballot papers returned, 58.5% voted yes and the petition was forwarded to the then Department of Communities and Local Government. In September 2007, the Parliamentary Under-Secretary of State 'decided in principle to give effect to the petition to create a new Parish of Neston'.

In December 2007 the former Ellesmere Port and Neston Borough Council asked for views on the proposal that there should be five wards, Little Neston (2719 electors, 4 councillors), Riverside (2908 electors, 4 councillors), Neston (3015 electors, 4 councillors) Parkgate (3158 electors, 4 councillors) and Ness (781 electors, 1 councillor). Electors were given until 30 March 2008 to make representations but by then the council decided that it was too late to organise elections in 2008, so the first elections were postponed to May 2009 only to be postponed again to June 2009, to coincide with the European Elections, to save the cost of a separate election.

In November 2008 Neston Civic Society hosted a meeting for anybody interested in standing as a candidate for the Parish Council with advisors from the Cheshire Association of Local Councils (ChALC). In Neston, Councillors would initially be elected for two years, and after that for four years.

The local political parties agreed not to contest the election but left their members free to stand as independents if any of them wished to. In February 2009, Neston Civic Society organised two further meetings, where the processes involved in running a council were explained and the Cheshire West & Chester Council Electoral Officer explained the timetable for the election.

Subsequently 16 candidates were duly nominated for the 17 seats, a full complement for each ward except Riverside where a vacancy remained. Accordingly, all 16 were duly declared elected. At the Council's first meeting on 18 June 2009, the Council agreed formally to change its name from a parish council to Neston Town Council, Moira Andrews was elected its first Chairman and arrangements were made to advertise for persons to be considered for co-option to the remaining place. These were considered at the following meeting in July and one person was duly co-opted.

Neston Town Council (NTC) was therefore established in 2009 so that the town of Neston would have greater influence with the principal council. In Spring 2014, the Council took over the running of the Town Hall, the Market Square and the weekly Friday Market.

The Town Council takes pride in its ability to work in partnership with CW&C, the Town's residents, businesses and voluntary sector. The Council delivers a limited range of services which can be viewed on the website, but is now aspiring to do more for the Town as set out in its Strategy.

## **ABOUT THE TOWN**

Neston is a town and civil parish located on the Wirral Peninsula, in Cheshire. It is in the unitary authority of Cheshire West and Chester (CW&C). Parkgate the only coastal

resort in the County is located to the north west and the village of Little Neston to the south of the town. Whilst we await the 2021 Census results, the total population is estimated to be in excess of 15,300, which is growing slower than CW&C and the North West Region (NWR).

The name Neston is of Viking origin, deriving from the Old Norse *Nes-tún*. A royal charter was granted to Neston in 1728 in support of its status as a market town. Neston was a major port before the River Dee silted up, when the port shifted further downstream to the nearby town of Parkgate. By early nineteenth century, most traffic had ultimately transferred to Liverpool. Neston is also a former mining town.

There has been a significant reduction in the population of children with a commensurate rise in the pensionable adult population. There is a largely white, British population (96% in 2011), with the remainder a mix of ethnicities. In 2011 there were 6,777 households and 7,097 dwellings, with a higher % of detached homes than CW&C as a whole and also a higher number of owner-occupiers. There is a need for more affordable homes and single person accommodation.

There are a higher proportion of Neston residents economically inactive than for CW&C and NWR. Of those working, 45% are within the professional and managerial categories, more than CW&C and NWR. The index of multiple deprivation indicates Neston as a whole presents a place offering considerable advantages. 60% of the population are amongst the least deprived in the country, far exceeding CW&C. 38% of residents are not doing so well however. Parts of north and east Neston and to a lesser extent Little Neston, show some levels of deprivation. No parts of Neston fall within the most deprived categories but there are some areas of need.

In 2021, "Cheshire Life" referred to Neston as the County's best kept secret, a sleepy countryside market town that is absolutely on the up, quietly beaver away to rival local hotspots with more glamorous reputations.

## **HOW THE COUNCIL OPERATES**

The Council is composed of 17 Councillors, representing the current 3 Wards. (Neston; Parkgate; Little Neston). Council elections take place in May every 4 years, when a new Council is elected. The next "all-out elections" are due in May 2023. The terms of office of councillors are four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. The overriding duty of Councillors is to the whole community, but they have a special duty to their ward constituents, including those who did not vote for them.

Only registered voters of the Town or those living or working there are eligible to hold the office of councillor, providing they are 18 years of age or over and not disqualified.

Councillors are required to agree to follow a code of conduct to ensure high standards in the way they undertake their duties, which includes the declaration of interests in matters considered by Council. The Council's adopted Members Code of Conduct can be found below. Cheshire West and Chester Council is responsible for promoting and ensuring the standards of conduct by both unitary and town councillors. Their Monitoring Officer deals with complaints about the behavior of councillors under the Code.

All councillors meet together as the Council. At Council meetings, councillors decide the Council's overall policies, set the budget each year and deals directly with the more major issues. Meetings of the Council are normally open to the public and take place every other month with the Annual Council meeting in May.

The Council appoints committees which deal with the more detailed or routine items of business. Many decisions are delegated by full Council to these committees; however, a number of items are dealt with as recommendations to be ratified at a meeting of the Council. Committees may establish sub-committees to deal with more detailed issues. Council may also establish working groups, which do not have decision making powers but look at the detail of future policy or services in a depth which would not be possible in the formal arena. More information about the Council's committees and sub committees can be found on the website.

If a casual vacancy arises during the four years, the Council Manger will publish a notice to that effect. In the event of 10 or more local government electors for the ward concerned requisitioning an election, then the vacancy will be filled by electoral ballot. If no such requisition is received by the Returning Officer within the statutory time limit, then the Town Council can fill the vacancy by co-option.

The Council may additionally co-opt non councillors to join a committee with the legal exception of Finance and Administration Committee, for example to bring in additional expertise. The committee member may not be able to vote, but will otherwise have all the same rights and responsibilities as councillor members of the committee.

### **HOW DECISIONS ARE MADE**

All formal meetings of council and its committees are subject to statutory notice being given, and the Council publishes an annual programme in May each year. Meetings are always publicised on the website. All formal meetings are open to the public and press. Reports to those meetings and relevant background papers are available for the public to see.

Occasionally, Council or committees may need by law to consider matters in private. Examples of this are matters involving personal details of staff, or a particular member of the public, or where details of commercial sensitivity are to be discussed. This will only happen after a formal resolution has been passed to exclude the press and public. Minutes from all formal meetings, including the confidential parts are public documents, but they will not disclose personal or confidential information.

### **THE COUNCIL'S STAFF**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. The Council Manager heads up this paid service and has specific duties as the "Proper Officer" to ensure that the council acts within the law. The Finance Manager is also designated as "Responsible Financial Officer" to ensure that financial best practice is followed. A code of conduct ensures high standards of conduct and a protocol governs the relationships between officers and members of the council.

### **CITIZENS' RIGHTS**

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific council services they have additional rights. These are not covered in this Constitution but you will be told of them when you use the service.

Citizens have the right to:

- Vote at local elections if they are registered;
- Contact their local councillor about any matters of concern to them;

- View a copy of the Constitution;
- Attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- Speak in the appropriate part of Council and committee meetings;
- Film, photograph or make an audio recording of the meeting for the benefit of those not attending, providing it is not disruptive;
- Present a petition to the Council;
- Complain about any aspect of the Council's services. (If a complaint in the usual way does not bring satisfaction, the Council has a formal Complaints procedure);
- Complain to Cheshire West & Chester Council's Monitoring Officer if they have evidence which shows that a councillor has not followed the Members Code of Conduct;
- Inspect the Council's accounts and make their views known to the external Auditor who checks the Council's financial management and expenditure;
- View and in most cases obtain copies of documents set out in the Council's publication scheme, and
- Exercise their rights under Data Protection legislation.

The Council welcomes participation by its citizens in its work and welcomes interested people at its meetings.

## **ROLES AND FUNCTIONS OF ALL COUNCILLORS**

All councillors, whatever their formal position on the council and local party-political system, share common roles and responsibilities. All Town Councillors continue to stand independently of political parties.

### **(a) Key Roles**

All councillors will:

- Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- Represent their communities and bring their views into the council's decision-making process, i.e., become the advocate of and for their communities;
- Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Balance different interests identified within the ward and represent the ward as a whole;
- Participate in the governance and management of the council;
- Be available to represent the council on other bodies;
- Maintain the highest standards of conduct and ethics.

### **(b) Rights and Duties**

- 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.
- Councillors will not disclose 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.
- Unless specifically authorised to do so by the Council or a committee, a Member of the Council shall not issue any order respecting any works which are being carried out by or behalf of the Council or claim by virtue of his/her membership of the Council any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.



## **ROLE AND FUNCTION OF THE MAYOR**

The chairman of a local council which has adopted the style of Town Council, is known, and referred to, as the Town Mayor. The Town Mayor has a statutory role as Chairman of the Council and as such, he/she will chair meetings of full Council. In doing so, will promote political neutrality.

The Mayor will be the civic head of the Council, first citizen of the Town subject to deference to the principal council where appropriate. He / She will be a symbol of the Authority and an expression of social cohesion. The Mayor will have a key role in promoting the town and will act as the Town Council's representative at official events.

The Chairman will be elected from amongst the Authority's members by full Council at its Annual Meeting and holds office for a year.

Use of the title of Mayor can, on occasions, lead to some confusion on matters of protocol. Below we set out a few points on protocol relative to Town Mayors and also their relationship with the mayors of neighbouring Councils where they may be invited or to whom invitations may be offered.

When communicating with the Town Mayor, either in writing or in person, the correct mode of address is 'Mr Town Mayor' or 'Madam Town Mayor'. Some Mayors prefer 'Ms Town Mayor'.

Most Town Councils will hold a chain of office which may be worn by the Mayor at some or all of the full council meetings and on other formal and civic occasions, such as Remembrance day parades, presenting awards or trophies, performing opening ceremonies or welcoming visitors or delegates to conferences. Some Town Councils have a Mayoral medallion which is worn on less formal occasions, for example at a reception, lunch or sporting event. If the Mayor wishes to wear his/her chain of office outside the parish or community he / she should, as a matter of etiquette, seek the permission of the Chairman or Mayor of the area in question.

There will be occasions when functions will be held within the parish or community at which the Mayor will be the host. He / she will then be placed first in the reception line to receive the guests. On the other hand, when the Mayor himself / herself is a guest, the host will usually invite him / her to join the reception line, in which case the Mayor receives the other guests after the host.

On those occasions when the Town Mayor is the principal guest at functions in his / her own parish or community, he / she will be seated on the immediate right of the president or chair of the host organisation.

## **DEPUTY MAYOR**

The Council appoint a Deputy Mayor at the time the Mayor is elected, who shall assume the role of the Chairman when the Chairman is not present, or unable to fulfil that function.

## **MEMBERS ALLOWANCE & EXPENSES**

The Town Council has decided not to pay its councillors an allowance but does of course reimburse its Member's expenditure legitimately incurred in the conduct of its business.

Reimbursement of expenses incurred in travelling on authorised Council business, including accommodation and subsistence, shall not exceed limits currently agreed by Cheshire West & Chester Council.

Authorisation for all activities or purchases resulting in claims for reimbursement shall normally be required in advance of expenditure being incurred, except in the case of an emergency by the appropriated Committee or the Council itself.

### **MAYORS ALLOWANCE**

The Council recognise that during his or her period of office, the Mayor puts in long hours representing the Council and often raising money for nominated charities. The Mayor has to transport him / herself to functions not only within the Town, but across the County. Limited secretarial support is available from the office.

Like most local councils of this size, Neston Town Council has traditionally made a small provision in the Budget each year for a Mayor's allowance, to be used at the Mayor's discretion.

Mayors' allowances are covered by the Local Government Act 1972, sections 15(5) and 35(5). They are to provide recompense for appropriate clothing (which would not otherwise have been necessary), transport, contribution towards telephone, small tokens such as flowers, donations to charities, tickets to functions etc. There is no requirement for strict accounting for the spend, but a general report on activity suffices. The allowance is not exempt from income tax and therefore the way it is managed is important.

Limited hospitality and administration costs at Council events such as Civic Sunday, Annual Council and Annual Town meeting would be paid directly from the Civic Hospitality budget, as would the postage for invitations and Christmas cards.

Mayors traditionally hold events, to raise money for charity. If the Council decide it is appropriate, costs and income can be dealt with through a Mayors Charity account. Any up-front expenses could then be taken from the Mayor's Allowance or Charity money already raised and reimbursed from income for the event as it comes in.

The Allowance will be administered as follows:

- 50% of the allowance will be paid to the Mayor at the beginning of the year (subject to PAYE deductions).
- Direct payments can be made for items such as tickets, room hire & small tokens on authorisation from the Mayor.
- The Mayor may claim back expenses incurred on providing receipts where possible.
- The Mayor may be reimbursed for travel expenses, with mileage claims at the appropriate rate.
- Any remaining allowance will be paid to the Mayor subject to PAYE reductions.

### **REPORTING OF MEETINGS BY THE PUBLIC**

Neston Town Council is committed to being open and transparent in the way it conducts its decision making. It recognises and supports the legal right of the public to undertake the recording [including filming, audio recording, taking photographs, blogging, tweeting and using other social media websites] at Council and committee meetings which are open to the public [see Standing Orders, Section 3]. However, a person present at a meeting may not provide an oral report or oral commentary about a meeting as it takes place because it is likely to disrupt the business of the meeting.

The Council will also take steps to ensure that children, the vulnerable and members of the public who object to being filmed are protected without undermining the broader purpose of the meeting.

With this in mind, the Council have introduced the following rules:

1. Anyone wishing to record must let the Chairman / Council Manager of the meeting know prior to, or at the start of, the meeting and the recording must be overt (i.e., clearly visible to anyone at the meeting), but non-disruptive.
2. All those visually recording a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting. Any children present at the meeting are not to be filmed unless their parents / guardians have given their consent. Please be aware: photographing a Ward of Court is usually regarded as an actionable Contempt of Court.
3. At the beginning of each meeting, the Chairman will make an announcement that the meeting may be filmed or recorded. Meeting agendas will also carry this message.
4. Any member of the public has the right not to be recorded. We ensure that agendas for, and signage at, council meetings make it clear that recording can take place – if anyone speaking at the meeting does not wish to be recorded, they must let the Chairman of the meeting know.
5. Any person wishing to record Council meetings will be responsible for ensuring that any cabling, or electrical equipment that they use has been properly tested and installed and adheres to health and safety requirements. The Council will not be held liable for any injuries to the individual or members of the public caused by the recording of its meetings.
6. The Chairman of the meeting has absolute discretion to stop or suspend recording if in their opinion continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules. The circumstances in which this might occur might include:
  - recording is disrupting the proceedings of the meeting,
  - there is public disturbance or a suspension of the meeting, and
  - the meeting has resolved to exclude the public for reasons which are set down in the Council's Constitution.
7. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.
8. Meetings which take the form of hearings, may not always be suitable for recording due to the nature of some of the evidence to be given at the hearing, and the Chairman will use discretion to decide if recording is allowed.
9. If the Committee needs to discuss confidential or exempt information (and goes into Part Two), and the public are excluded from the meeting, then all recording equipment will need to be removed immediately from the room.
10. The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting proceedings.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those who undertake the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act, the Public Order Act Part III (1986 as amended), the Equality Act 2010 and the laws of libel and defamation.

The Council may itself photograph, film, record or broadcast at its meetings and may retain, use or dispose of such material in accordance with its retention and disposal policies. Recordings of Council meetings will be deleted from the (iCloud or other storage system of the council) storage and any other storage or computer device when the minutes of the meeting being recorded has been approved by Full Council.

Draft