

# PART 4

## PROCEDURE RULES

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## PART 4A

# ACCESS TO INFORMATION PROCEDURE RULES

## **A. Access to Information Procedure Rules**

### **1. Interpretation**

- 1.1. In these and subsequent Procedure Rules in this Part 4:
- 1.1.1. references to 'the Council' means 'Full Council', unless otherwise stated;
  - 1.1.2. references to 'committees' includes 'committees and boards' unless otherwise stated;
  - 1.1.3. references to 'sub-committees' includes 'sub-committees, working groups, panels and forums' unless otherwise stated;
  - 1.1.4. references to the serving of notice to 'Monitoring Officer' shall, unless otherwise stated, include notice to 'Democratic Services'; and
  - 1.1.5. references to 'Rules' means these Procedure Rules, unless otherwise stated.
  - 1.1.6. unless otherwise required by law, references to 'copies of documents being made available for public inspection' means the publication online or sent electronically upon request.

### **2. Scope**

These Rules apply to all meetings of the Council, its Committees and Sub-Committees and to public meetings of the Cabinet (together referred to as "meetings").

### **3. Additional Rights to Information**

These Rules do not affect any other specific rights to information contained elsewhere in this Constitution or otherwise provided by law.

### **4. Rights to Attend and Report upon Meetings**

- 4.1. Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 4.2. Members of the press and public are also entitled to film, audio record and report on meetings of the Council, Committees, Sub-Committees and Cabinet, except in circumstances where the public have been excluded in accordance with this Constitution or as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Council on its website or made available at the meeting.

### **5. Notice of Meetings**

The Council shall ordinarily give at least five clear working days' notice of any meeting by publicising a copy of the official notice on the Council's website and at the Council's main office.

## 6. Agenda and Supporting Papers - Rights of Access

- 6.1. The Council shall ordinarily make copies of the agenda and supporting papers for non-confidential business open to the public available for inspection on the Council's website, at least five clear working days before the meeting.
- 6.2. Where an item is added to an agenda at a later date and the report is open to the public, a revised agenda will ordinarily be made available for inspection, together with any supporting papers, as soon as possible.
- 6.3. The Council will as far as possible, supply to any member of the public on request (and subject to payment to the Council of a charge for postage and any other costs), copies of any agenda and reports which are open to public inspection, and if the Monitoring Officer thinks fit, copies of any further documents supplied to Councillors relating to that item.

## 7. Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting

- 7.1. The Council will make electronically available, for a period of six years from the date of the meeting:
  - 7.1.1. the minutes of the meeting where, under these Rules or the Constitution, minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - 7.1.2. the records of decisions taken, together with reasons by the Cabinet, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - 7.1.3. where information relating to a decision is not considered in public, a summary of the proceedings to provide a reasonably fair and coherent record, excluding any information which is of a confidential or exempt nature; and
  - 7.1.4. reports relating to items which were considered when the public were entitled to be present.

## 8. Background Documents

- 8.1. Background Documents are those documents which relate to the subject matter of the report which in the opinion of the Monitoring Officer:
  - 8.1.1. relate to the subject matter of the item in question;
  - 8.1.2. disclose any facts or matters on which the report or an important part of it has been based; and
  - 8.1.3. has been relied upon to a material extent in preparing the agenda item.

- 8.2. The requirements in Rule 8.1 of this Part 4A do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.
- 8.3. Background Documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made, including those made by an individual Councillor or Officer.

## **9. Definition of Confidential and Exempt Information**

### **9.1. Confidential Information**

Confidential Information means information supplied or given to the Council by a Government department on terms which forbid the disclosure of the information to the public or information which cannot be disclosed to the public by or under any enactment or by the order of a Court.

### **9.2. Exempt Information**

Exempt Information means information falling within the following categories (subject to any qualification listed at Rule 9.3 of this Part 4A):

- 9.2.1. information relating to any individual;
- 9.2.2. information which is likely to reveal the identity of an individual;
- 9.2.3. information relating to the financial or business affairs of any particular person (including the authority holding that information);
- 9.2.4. information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;
- 9.2.5. information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- 9.2.6. information which reveals that the authority proposes:
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment; and
- 9.2.7. information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **9.3. Exempt Information – Qualifications**

- 9.3.1. Information falling within the categories set out in Rule 9.2 of this Part 4A is not exempt information if it is required to be registered under:
  - a) the Companies Acts (as defined in Section 2 of the Companies Act 2006);



- b) the Friendly Societies Act 1974;
- c) the Friendly Societies Act 1992;
- d) the Co-operative and Community Benefit Societies Act 2014;
- e) the Building Societies Act 1986; or
- f) the Charities Act 2011.

9.3.2. Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

9.3.3. Information which:

- a) falls within any of the descriptions referred to in Rule 9.2 of this Part 4A; and
- b) is not prevented from being exempt by the previous two qualifications is exempt information if having considered all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **10. Exclusion of the Public from Meetings**

### **10.1. Confidential Information – Requirement to Exclude**

The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that Confidential Information, as described in Rule 9.1 of this Part 4A will be disclosed.

### **10.2. Exempt Information – Discretion to Exclude**

The public may be excluded from a meeting where it is likely that Exempt Information will be disclosed, as described in Rule 9.2 of this Part 4A.

## **11. No public right of access to agenda papers**

The Monitoring Officer, where they consider it necessary, may refuse access by the public to any agenda or supporting papers which in their opinion relate to items during which, in accordance with Rule 7 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked "Not for Publication" and will contain the category of information to be disclosed as set out in Rule 9.2 of this Part 4A. Similar provisions apply to the disclosures of documents related to decisions of the Council, including the Cabinet.

## **12. Application of these Rules to the Cabinet**

Rules 13 to 22 of this Part 4A will apply only to the Cabinet and any Committees or Sub-Committees which it may establish from time to time.

## **13. Procedure before taking a Key Decision**

13.1. Subject to Rule 15 (General Exception) or Rule 16 (Special Urgency) of this Part 4A, a Key Decision cannot be taken unless:

- 13.1.1. a notice ("the Forward Plan") has been published in connection with the matter in question and made available to the public;
- 13.1.2. at least 28 clear calendar days have elapsed since publication of the Forward Plan; and
- 13.1.3. where the decision is to be taken at a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, public notice of the meeting has been given under Rule 5 above.

## **14. The Forward Plan**

14.1. The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover the 12-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the 12-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 15 (General Exception) or Rule 16 (Special Urgency) of this Part 4A will apply.

14.2. The Forward Plan will contain such matters as the Leader has reason to believe will be Key Decisions to be taken by the Leader, the Cabinet, a Portfolio Holder, a Committee or Sub-Committee of the Cabinet, an Officer in the course of the discharge of a Cabinet function during the period covered by the Forward Plan.

14.3. The Forward Plan will describe in respect of each matter, the following particulars:

- 14.3.1. the matter relating to the decision to be made;
- 14.3.2. the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
- 14.3.3. the date on which, or the period within which, the decision will be taken;
- 14.3.4. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- 14.3.5. the means by which any such consultation is proposed to be undertaken;

- 14.3.6. the steps any person might take to make representations to the Cabinet or decision taker about the matter before the decision is made, and the date by which those steps must be taken;
  - 14.3.7. a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
  - 14.3.8. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
  - 14.3.9. that other documents relevant to the matter may be submitted to the decision taker; and
  - 14.3.10. the procedure for requesting details of those documents (if any) as they become available.
- 14.4. Where in relation to any matter where the public may be excluded from a public meeting under Rule 10 of this Part 4A, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any Confidential Information or Exempt Information.

## **15. General Exception for Key Decisions**

- 15.1. If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 16 (Special Urgency) of this Part 4A, the decision may still be taken if the following apply:
- 15.1.1. the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
  - 15.1.2. the Monitoring Officer has informed by way of Notice in writing the Chair of the relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee of the matter to which the decision is to be made;
  - 15.1.3. the Monitoring Officer has made copies of that Notice available to the public; and
  - 15.1.4. at least five clear working days have elapsed since the Monitoring Officer complied with their obligations under this paragraph.
- 15.2. Where such a decision is taken by the Cabinet, it must be taken in public subject to any requirements relating to the disclosure of Confidential or Exempt Information and the exclusion of the public.

## **16. Special Urgency for Key Decisions**

- 16.1. If by virtue of the date by which a Key Decision must be taken, the requirements of Rule 15 (General Exception) of this Part 4A cannot be followed, then the decision can only be taken if the decision taker (in the case of an individual) or the Chair of the body taking the decision, obtains the

agreement of the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

- 16.2. If there is no Chair of the Overview and Scrutiny Committee or if they are unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair of the Council will suffice.
- 16.3. In addition to the requirement to agree to the matter being dealt with as urgent business, the Chair of the relevant Overview and Scrutiny Committee, or the Chair or Vice-Chair of the Council if applicable, will be consulted on the subject matter of the decision itself and may comment on the proposed decision to be taken.

## **17. Report to Council**

- 17.1. If the Overview and Scrutiny Committee is of the opinion that a Key Decision has been taken which was not:
  - 17.1.1. included in the Forward Plan;
  - 17.1.2. the subject of the General Exception procedure under Rule 15 of this Part 4A;
  - 17.1.3. the subject of an agreement with the relevant Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under Rule 16 of this Part 4A,

the Committee may require the Cabinet to submit a report to Full Council within such reasonable time as the Committee specifies.

- 17.2. In response to any requirement under Rule 17.1 of this Part 4A, the Cabinet must prepare a report for submission to the next available meeting of Full Council. However, if the next meeting of the Council is within 7 days of the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the subsequent meeting. The report to the Council must set out particulars of the decision, the individual or body taking the decision, and if the Cabinet is of the opinion that it was not a Key Decision, the reasons for that opinion.

## **18. Record of Decisions of the Cabinet**

- 18.1. After any meeting of the Cabinet or any of its Committees or Sub-Committees, whether held in public or private, the Monitoring Officer or their nominee, or, where no officer was present, the person presiding at the meeting, will produce as soon as practicable an electronic record of every decision taken at that meeting. The record will include the following:
  - 18.1.1. a record of the decision including the date it was made;
  - 18.1.2. a record of the reasons for the decision;
  - 18.1.3. details of any alternative options considered and rejected by the decision taker;

- 18.1.4. a record of any conflict of interest relating to the matter decided which is declared by any member of the body making the decision; and
- 18.1.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

## **19. Cabinet Meetings relating to matters which are not Key Decisions**

The Cabinet will decide whether meetings relating to matters which are not Key Decisions will be held in public or private.

## **20. Meeting of the Cabinet in Private**

- 20.1. Where a meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, is to be held in private under these Rules, at least 28 clear days before the meeting, the Cabinet shall make available at the Main Office of the Council a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.
- 20.2. At least five clear days before the meeting, the Cabinet must make available at the Main Office of the Council a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details of any representations received by the Cabinet about why the meeting should be open to the public; and a statement of the Cabinet's response to any such representations.
- 20.3. All members of the Cabinet shall be entitled to be given five clear working days' notice of the meeting, whether or not they are summoned to attend, unless the meeting is convened at shorter notice on urgency grounds.
- 20.4. Copies of the notices required by Rule 20.1 and Rule 20.2 of this Part 4A shall be sent to the Chair of the Overview and Scrutiny Committees.
- 20.5. Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 of this Part 4A impracticable, the meeting may only be held in private where the Cabinet has obtained agreement from:
  - 20.5.1. the Chair(s) of the relevant Overview and Scrutiny Committee(s); or
  - 20.5.2. if there is no such person, or if the Chair of the Overview and Scrutiny Committees are unable to act, the Chair of the Council; or
  - 20.5.3. where there is no Chair of either the Overview and Scrutiny Committees or of the Council able to act, the Vice-Chair of the Council,that the meeting is urgent and cannot reasonably be deferred.

## **21. Attendance at private meetings of the Cabinet**

### **Cabinet Members**

- 21.1. Any member of the Cabinet may attend a private meeting of a Committee or Sub-Committee of the Cabinet whether or not they are members of that body unless the body determines otherwise.
- 21.2. Any Cabinet member who is not a member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

### **Officers**

- 21.3. The Head of the Paid Service, the Section 151 Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet cannot meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Cabinet.
- 21.4. A private meeting of the Cabinet, including a Committee or Sub-Committee of the Cabinet, may only take place in the presence of the Monitoring Officer or their nominee, who shall have responsibility for recording and publicising any decisions.

## **22. Decisions by Portfolio Holders**

- 22.1. Decisions made by individual Portfolio Holders must be taken in accordance with the procedure established by the Monitoring Officer which will provide for a written report template to be prepared by the relevant officer, and formal sign off by the Monitoring Officer and Section 151 Officer before the decision is made.
- 22.2. As soon as reasonably practicable after an Executive decision has been taken by a Portfolio Holder, the written record of the decision must be published which should include the following:
  - 22.2.1. the decision made including the date it was made;
  - 22.2.2. the reasons for the decision;
  - 22.2.3. details of any alternative options considered and rejected by the Portfolio Holder making the decision;
  - 22.2.4. a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet who is consulted by the Portfolio Holder which relates to the decision;
  - 22.2.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer;
  - 22.2.6. the financial and legal implications of the decision and confirmation that the decision has been considered by the Section 151 Officer and Monitoring Officer; and

- 22.2.7. the consultation undertaken prior to the decision being made, including any consideration by the relevant Overview & Scrutiny Committee and Ward Councillors.
- 22.3. The provisions of Rules 7 (Access to Decision Records) and 8 (Background Documents) of this Part 4A will also apply to the making of decisions by Portfolio Holders. This does not require the disclosure of Exempt or Confidential Information or advice from a political assistant.

## **23. Record of Executive and Non-Executive decisions taken by Officers**

- 23.1. As soon as reasonably practicable after an Officer has made a decision which is an Executive Decision a written record of the decision will be published which will include the following:
  - 23.1.1. the decision made and the date it was made;
  - 23.1.2. a record of the reasons for the decision;
  - 23.1.3. details of any alternative options considered and rejected by the Officer when making the decision;
  - 23.1.4. a record of any conflict of interest declared by any Cabinet member who is consulted by the Officer which relates to the decision;
  - 23.1.5. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer;
  - 23.1.6. the financial and legal implications of the decision and confirmation that the decision has been considered by the Section 151 Officer and Monitoring Officer; and
  - 23.1.7. the consultation undertaken prior to the decision being made, including any consideration by the relevant Overview & Scrutiny Committee and Ward Councillors.
- 23.2. Any record prepared in accordance with Rule 23.1 of this Part 4A and any report considered by the Officer and relevant to the decision will be available for public inspection on the Council's website.
- 23.3. Rules 23.1 to 23.2 of this Part 4A apply to Major Operational Decisions made by Officers as defined by Article 12 of the Constitution. These rules do not apply to day to day administrative or operational decisions taken by Officers in connection with the discharge of functions.
- 23.4. When an Officer makes a Major Operational Decision the Monitoring Officer must be provided with a completed Delegated Record of Decision within two working days of the date of taking the decision together with a copy of any report upon which the decision was made.
- 23.5. The Monitoring Officer will keep a record of all such decisions made by Officers including any report upon which each decision was made and will ensure that the decision is recorded and published by the Council on its website.



- 23.6. As soon as reasonably practicable after an Officer has made a decision under an express delegation from Full Council, its Committees, Sub Committees or any Joint Committee in which the Council is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Council's position, a written statement will be prepared including:
- 23.6.1. a record of the decision including the date it was made;
  - 23.6.2. a record of the reasons for the decision;
  - 23.6.3. details of any alternative options considered and rejected by the Officer when making the decision; and
  - 23.6.4. a record of the name of any Councillor or local government body who has declared an interest (for decisions taken under an express delegation).
- 23.7. Any record prepared in accordance with Rule 23.6 of this Part 4A together with any background papers considered by the Officer and relevant to the decision will be available for public inspection on the Council's website.
- 23.8. Rules 23.6 to 23.7 of this Part 4A do not apply to:
- 23.8.1. routine administrative and organisational decisions;
  - 23.8.2. decisions on operational matters such as day to day variations in services;
  - 23.8.3. decisions if the whole or part of the record contains Confidential or Exempt Information; or
  - 23.8.4. decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

## **24. Access to documents - Overview and Scrutiny Committees**

### **Right to Copies of Documents**

- 24.1. Subject to Rule 24.3 of this Part 4A, any member of the Overview and Scrutiny Committees is entitled to copies of any document which is in the possession or control of the Leader, the Cabinet including its Committees and Sub-Committees, and which contains material relating to:
- 24.1.1. any business transacted at a public or private meeting of the Cabinet including any of its Committees and Sub-Committees;
  - 24.1.2. any decision taken by an individual member of the Cabinet; or
  - 24.1.3. any executive decision taken by an Officer in accordance with Part 3 of this Constitution.
- 24.2. Where a member of an Overview and Scrutiny Committee (including its Sub-Committees) requests a document which falls within Rule 24.1 of this Part 4A the Leader must provide that document as soon as reasonably practicable and



in any case no later than 10 clear working days after the Leader receives the request.

- 24.3. Subject to Rule 24.4 and 24.5 of this Part 4A the Chair, or in the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Cabinet before the decision is made.
- 24.4. Overview and Scrutiny Committee members will be entitled to any such document or part of a document that contains Exempt or Confidential Information unless the Monitoring Officer determines that the information is not relevant to an action or decision they are reviewing or scrutinising or any review contained in any programme of work of the Overview and Scrutiny Committees.

### **Limits on Right to Copies**

- 24.5. Where the Leader so determines, a member of the Overview and Scrutiny Committees will not be entitled to:
  - 24.5.1. any document that is in draft form; or
  - 24.5.2. the advice of a political advisor.
- 24.6. Where the Leader or Monitoring Officer determines that a member of the Overview and Scrutiny Committees is not entitled to a copy of a document or part of any such document, under Rule 24.4 and Rule 24.1 of this Part 4A, the Leader or Monitoring Officer as applicable must provide the relevant Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

## **25. Additional rights of access for Councillors**

- 25.1. All Councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and/or the Cabinet, including its Committees or Sub-Committees, and contains material relating to:
  - 25.1.1. any business to be transacted at a public meeting;
  - 25.1.2. any business previously transacted at a private meeting;
  - 25.1.3. any decision made by a Portfolio Holder; or
  - 25.1.4. an Executive decision by an Officer;unless in the opinion of the Monitoring Officer it contains Confidential or Exempt Information or it contains the advice of a political advisor.
- 25.2. All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Cabinet including its Committees and Sub-Committees which relates to any Decision unless Rule 24.4 of this Part 4A applies.

- 25.3. In relation to public meetings, where a document is required to be available for inspection by all Councillors under Rule 25.1 of this Part 4A it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.
- 25.4. In relation to private meetings, decisions made by a Portfolio Holder or Executive decisions made by an Officer, where a document is required to be available for inspection by all Councillors under Rule 25.1 of this Part 4A it must be available within 24 hours of the meeting concluding or where an Executive decision is made by a Portfolio Holder or Officer within 24 hours of the decision being made.
- 25.5. These rights are in addition to any other rights to access information provided by law the Councillors may have.

## PART 4B

# CABINET PROCEDURE RULES

## **B. Cabinet Procedure Rules**

### **1. The Cabinet**

The Cabinet consists of the Leader of the Council and up to nine other Councillors appointed by the Leader, not being the Chair or Vice-Chair of the Council.

### **2. Application of the Cabinet Procedure Rules**

These procedure rules shall apply to the exercise of all Cabinet decisions whether taken collectively or individually.

### **3. Frequency of Cabinet Meetings**

The Cabinet will meet as indicated in the Council's Programme of Meetings. The Cabinet or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/they see fit. Locations of meetings will be published in the Calendar of Meetings.

### **4. Public and Private Cabinet Meetings**

- 4.1. The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules set out at Part 4A in this Constitution.
- 4.2. Attendance by other Councillors and the public shall be in accordance with the Access to Information Procedure Rules set out at Part 4A in this Constitution, by invitation under Rule 4.3 of this Part 4B, or as set out Rule 7 of this Part 4B.
- 4.3. The Cabinet may invite any person considered appropriate to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to Confidential and/or Exempt Information on terms to be decided by the Monitoring Officer so as to ensure that the Access to Information Procedure Rules are observed.

### **5. Quorum at Cabinet Meetings**

The quorum for meetings of the Cabinet is as set out in the Meeting Procedure Rules at Part 4D of this Constitution.

### **6. Decision Making Process**

- 6.1. Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Procedure Rules set out at Part 4A in this Constitution,
- 6.2. Cabinet decisions shall not be implemented where the right of Call-In has been exercised until that Call-In process has been concluded, unless the urgency procedure set out at Rule 14 of Part 4C of this Constitution applies.
- 6.3. Records of Cabinet decisions must be confirmed at the next meeting.

- 6.4. In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is being taken and that advice is taken into consideration in determining the matter. Where there is any doubt about whether the Cabinet has the legal power to make the decision or an issue of probity arises then advice must be obtained from the Monitoring Officer and the Section 151 Officer.

## **7. Conduct of Cabinet Meetings**

### **Chair of Cabinet Meetings**

- 7.1. The Leader will chair meetings of the Cabinet or in their absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the members present, may appoint one member of the Cabinet to preside.

### **Councillors attending and speaking at Cabinet Meetings**

- 7.2. The Chairs of the Overview and Scrutiny Committees shall be entitled to attend any formal public meeting of the Cabinet to refer to any recommendations made by their Committee to that meeting of the Cabinet, and to speak to any matter on the agenda for that meeting.
- 7.3. Other Councillors not previously described above may also speak at such meetings with the permission of the Leader or person presiding in their absence.

### **Business to be conducted**

- 7.4. The business to be transacted at meetings of the Cabinet will be set out in an agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Procedure Rules set out at Part 4A of this Constitution.
- 7.5. The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 7.6. The Cabinet is obliged to consider matters referred to it by the Overview and Scrutiny Committees, or by the Full Council for consideration under the Overview and Scrutiny Procedure Rules set out at Part 4C of this Constitution.
- 7.7. The Access to Information Procedure Rules set out at Part 4A of this Constitution will apply to notice of meetings, agendas, and access to reports and background papers. Where matters are for decision, the agenda must stipulate those which are Key Decisions and those which are not, in accordance with the Access to Information Procedure Rules.

### **Agenda**

- 7.8. The agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of Confidential or Exempt Information.

- 7.9. The Monitoring Officer or their nominated representative shall be responsible for preparing and distributing the Agenda for Cabinet meetings, attending meetings for the purpose of advising the Cabinet on matters within their area of responsibility and recording decisions as required under this Constitution.
- 7.10. Any member of the Cabinet may require the Monitoring Officer to place an item on the agenda for a stipulated meeting of the Cabinet.
- 7.11. The Monitoring Officer will ensure that any matters referred to the Cabinet by Full Council or the Council's Overview and Scrutiny Committees are placed on the agenda for the next appropriate meeting of the Cabinet.
- 7.12. The Chief Executive, the Monitoring Officer and/or the Section 151 Officer can include an item for consideration on the agenda of a Cabinet Meeting. In pursuance of their statutory duties they can require that a Special Meeting of the Cabinet be convened.
- 7.13. Business cannot be conducted at formal meetings of the Cabinet unless it is included in the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Procedure Rules set out at Part 4A of this Constitution must be complied with.

### **Questions**

- 7.14. Questions, statements and petitions can be submitted by members of the public at meetings of the Cabinet in accordance with Rule 13 of Part 4D of this Constitution.

### **Key Decisions**

- 7.15. The Cabinet will report to the Council as required under the Access to Information Procedure Rules set out at Part 4A of this Constitution on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.

## **8. Voting at Cabinet Meetings**

- 8.1. Voting at Cabinet meetings will be by a show of hands.
- 8.2. Any member may require, immediately after the vote is taken, that the record of decision of the meeting record how they voted or abstained.
- 8.3. Where there are equal votes cast, the Leader, or in their absence, the person presiding, will have a second and casting vote.
- 8.4. Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be by secret ballot conducted in accordance with Rule 19 of Part 4D of this Constitution.

## **9. Cabinet Committees/Sub-Committees**

- 9.1. The Cabinet may appoint such Committees or Sub-Committees as it considers necessary and appropriate to assist in the discharge of its functions.

- 9.2. In making such appointments, the Cabinet must specify the name of the Committee/Sub-Committee, its membership (including its Chair and, if appropriate, Vice-Chair) and the terms of reference of the body.

## **10. Motion under Procedure Rule 10 of Part 4D**

A mover of a motion under Procedure Rule 10 of Part 4D of this Constitution which has been referred to the Cabinet for consideration must attend the meeting of the Cabinet when their motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and they will be sent a copy of the relevant papers.

## **11. Resolving disputes**

In the case of any dispute during the proceedings of the Cabinet the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and their ruling will be final.

## **12. Reserves/substitute members**

There shall be no reserve or substitute members of the Cabinet.

## **13. Conflicts of Interest**

- 13.1. Where the Leader or any Cabinet member has a conflict of interest, they will follow the requirements of the Council's Code of Conduct for Councillors.
- 13.2. If all (or a majority) of the members of the Cabinet present have a conflict of interest then consideration will be given to applying to the Monitoring Officer for a dispensation from the provisions of the Council's Code of Conduct for Councillors.
- 13.3. If the discharge of a Cabinet function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest then action set out in Rule 13.2 of this Part 4B shall be considered.

## PART 4C

# OVERVIEW AND SCRUTINY PROCEDURE RULES



## **C. Overview and Scrutiny Procedure Rules**

### **1. How Overview and Scrutiny operates**

- 1.1. Any Procedure Rule applying to a Committee shall also apply to the Overview and Scrutiny Board unless otherwise stated.
- 1.2. The Overview and Scrutiny Committees will perform the functions as set out in Article 6 at Part 2 of this Constitution.
- 1.3. No Councillor may be involved in scrutinising a decision in which they have been directly involved.

### **2. Overview & Scrutiny Work Plan/s**

- 2.1. The proposed work of the Overview and Scrutiny Committees will be set out in a Work Plan which shall consist of work aligned to the principles for the function, as set out in this Constitution. Each Committee will be responsible for its own Work Plan.
- 2.2. Once any Work Plan has been approved, a copy will be published with the agenda for each meeting of the Overview and Scrutiny Committees and available to any Councillor on request.
- 2.3. The Overview and Scrutiny Board will maintain oversight of all Work Plans relating to the Overview and Scrutiny function. The purpose of this oversight is to ensure a balance of resource is available across the function and all overview and scrutiny work is adding value to the Council as a whole. The Overview and Scrutiny Board may comment on or make recommendations in relation to the Work Plans of other Overview and Scrutiny Committees as it sees appropriate to ensure overview and scrutiny work is adding value to the Council as a whole.

### **3. Responsibilities of Overview and Scrutiny Chairs and Vice-Chairs**

- 3.1. The Overview and Scrutiny Committee Chairs and Vice-Chairs will meet on a regular basis to assist the Board in maintaining oversight of the Overview and Scrutiny function, for example monitoring actions for improvement for Overview and Scrutiny, training and development needs, resource availability and cross-cutting scrutiny issues. Meetings will be informal and may be virtual.
- 3.2. The Chair and Vice-Chair of the Audit and Governance Committee will be invited to attend informal meetings of the Chairs and Vice-Chairs of Overview and Scrutiny as appropriate to discuss matters of mutual interest.
- 3.3. The Statutory Scrutiny Officer will report to Council on an annual basis on the work of Overview and Scrutiny, including recommendations for any changes that may be required to ensure the function remains fit for purpose. This report will be informed by consultation with the Chairs and Vice-Chairs of the Overview and

Scrutiny Committees and referred to the four Overview and Scrutiny Committees for comment.

## **4. Consultation and Suggestions**

- 4.1. The Overview and Scrutiny Committees will consult with other parts of the Council as appropriate, including the Cabinet, on the preparation of any Work Plan. They should also take into account the resources, including Councillor availability, Officer and financial resources, available to support their proposals.
- 4.2. The Overview and Scrutiny Committees may take suggestions from a variety of sources to form their Work Plans. This may include suggestions from members of the public, Officers of the Council, Portfolio Holders, the Cabinet and Council, members of the Committee, and other Councillors who are not on the Committee.
- 4.3. All suggestions for Overview and Scrutiny work will be accompanied by:
  - 4.3.1. detail outlining the background to the issue suggested;
  - 4.3.2. the proposed method of undertaking the work;
  - 4.3.3. likely timescale associated with undertaking the work; and
  - 4.3.4. the anticipated outcome and value to be added by the work proposed.
  - 4.3.5. No item of work shall join the work plan of any Overview and Scrutiny Committee without an assessment of this information.
- 4.4. Members of the public may make suggestions for Overview and Scrutiny work. Suggestions will be made in writing and accompanied by the detail outlined at Rule 4.3 of this Part 4C.
- 4.5. A facility will be made for members of the public to make suggestions for overview and scrutiny work on the Council's website. Suggestions will be considered by the relevant Overview and Scrutiny Committee. The Overview and Scrutiny Committees will maintain oversight of suggestions made by the public and will assess the value to be added by the work suggested when determining whether to exercise their powers in this respect. Any member of the public raising an item under this Rule shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

## **5. Requests**

- 5.1. Where Portfolio Holders, the Cabinet or Council request that Overview and Scrutiny Committees undertake a specified piece of work, the relevant Overview and Scrutiny Committee shall respond to the request as soon as it is possible to do so.
- 5.2. The Committee will assess the value to be added by the work suggested when determining whether to exercise its powers in this respect. Where it chooses to exercise its powers in relation to the request, it will report back its findings and

any recommendations to Cabinet and/or Full Council in accordance with Rule 11 of this Part 4C.

- 5.3. Where the Committee chooses not to exercise its powers in relation to the request, it will provide reasons for this to the body that made the original request.
- 5.4. All Councillors have the right to suggest that an item be considered for Overview and Scrutiny provided that the item to which the suggestion is made must be relevant to the functions of the Overview and Scrutiny Committee. Councillors must make this suggestion in writing to the Scrutiny Officer who will arrange for the publication of the request on the next available agenda of the relevant Overview and Scrutiny Committee agenda. The request will be accompanied by the information as set out at 4.3 above. The Overview and Scrutiny Committee shall consider the request, assess the value to be added by the work proposed and determine whether the matter shall join the Work Plan. Where a decision is made by the Committee not to exercise its powers in relation to the matter the Committee must provide its decision to the Councillor making the request, giving reasons for this.
- 5.5. Any Councillor raising an item under Rule 5.4 of this Part 4C shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

## **6. Engagement with the Overview and Scrutiny Committee**

- 6.1. Consideration will be given at the scoping stage as to how others, in addition to Councillors and Officers of the Council, may be engaged in the work of Overview and Scrutiny and the benefit that this engagement will bring to the work. This may include, but is not limited to, contribution from subject experts with relevant specialist knowledge and/or expertise; representatives of stakeholder groups and service users.
- 6.2. Overview and Scrutiny has a key role in the development of the Budget and Policies of the Council. The Overview and Scrutiny Committees may make proposals to the Cabinet or Full Council for development or review of key strategies, plans and policies to the extent that they relate to matters within the respective terms of reference for each Committee.

## **7. Commissioned Work**

- 7.1. When considering additions to its Work Plan, the Overview and Scrutiny Committees may commission work to be undertaken outside of Committee meetings in accordance with Article 6 at Part 2 of this Constitution.
- 7.2. When commissioning work, the Committees will take into account the availability of resources as highlighted above. Committees may undertake one piece of commissioned work at a time to ensure availability of resource across all Committees.
- 7.3. Bodies commissioned by the Overview and Scrutiny Committees may have conferred upon them the power to act on behalf of the parent Committee in

considering issues within the remit of the parent Committee and making recommendations directly to Portfolio Holders, Cabinet, Council or other bodies or people within the Council or externally as appropriate.

## **8. Rights of Overview and Scrutiny Committee members to information**

- 8.1. The Overview and Scrutiny Committee will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation.
- 8.2. In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules set out at Part 4A of this Constitution.
- 8.3. Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committees as appropriate. Regular, informal dialogue between the two is considered good practice to ensure that the Overview and Scrutiny function can understand developing Cabinet priorities, discuss and assess the value that Overview and Scrutiny can provide and contribute in a timely way to policy development.

## **9. Councillors and Officers giving account**

- 9.1. The Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function or matters which affect the Council's area or the inhabitants of that area. As well as reviewing documentation, in fulfilling its scrutiny role, it may require the Leader, any Portfolio Holder or Officer to attend before it to provide information in relation to matters within their remit. It is the duty of those persons to attend if so required. The Overview and Scrutiny Committees shall have sole discretion to determine which Councillors and Officers will be requested to attend and the format that discussions with invitees will take. All discussions will be based on respect and courtesy - consistent with the Code of Conduct - and will be undertaken with the aim of maximising the effectiveness of the scrutiny being conducted.
- 9.2. Where any Councillor or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Scrutiny Officer, who will inform the Councillor or Officer in writing giving at least seven clear working days' notice of the meeting. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Councillor or Officer concerned will be given reasonable notice to allow for its preparation.
- 9.3. Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Committee shall consider, in consultation with the Councillor or Officer, an alternative date for attendance or whether another Councillor or officer should attend in their place.

- 9.4. Officers should not be expected to enter, and should avoid being drawn into, discussions of politically contentious matters and any Officer input should be consistent with the requirements for political impartiality.
- 9.5. The requirements of any protocols on Councillor/Officer relationships and the Code of Conduct must be adhered to where an Officer is attending an Overview and Scrutiny Committee.

## **10. Attendance by others**

- 10.1. With reasonable notice, the Overview and Scrutiny Committees may invite individuals other than those referred to in Rule 9 of this Part 4C to address it, to discuss issues of local concern and/or answer questions.
- 10.2. Where the Overview and Scrutiny Committees conduct investigations (for example with a view to policy development), the Committee may ask individuals to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
  - 10.2.1. the investigation is to be conducted fairly and all members of the Committee will be given the opportunity to ask questions of attendees, and to contribute and speak;
  - 10.2.2. those assisting the Committee by giving evidence will be treated with respect and courtesy; and
  - 10.2.3. the investigation will be conducted so as to maximise the efficiency of the investigation or analysis.

## **11. Reports from the Overview and Scrutiny Committee**

- 11.1. The Overview and Scrutiny Committees will report on findings of their work to Cabinet and Full Council, as appropriate according to the matter under review and recommendations being made.
- 11.2. Once recommendations have been formed, the Overview and Scrutiny Committee will submit a formal report for consideration by the Cabinet, or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an Executive Function and are consistent with the existing Budget and Policy Framework); or to Full Council as appropriate (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 11.3. Where recommendations have been submitted, Full Council or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months (or the next available meeting in the case of the Council). A response will be provided to the Overview and Scrutiny Committee indicating what action, if any, the Cabinet or Full Council proposes to take.
- 11.4. Where the Overview and Scrutiny Committee submits recommendations for consideration by a Portfolio Holder, the Portfolio Holder must consider the report

and respond in writing to the Overview and Scrutiny Committee within two months of receiving it indicating what action, if any, the Portfolio Holder proposes to take. The Portfolio Holder must also attend a future meeting of the Overview and Scrutiny Committee to present their response.

## **12. Where the Decision Maker is an External, non-Council Organisation**

- 12.1. Where that organisation has a statutory duty to respond to the Committee, a written response shall be requested within the timescale required or, if mutually agreed, by another set deadline so the response can be placed on the agenda of the next scheduled meeting of the Committee, if appropriate.
- 12.2. Where that organisation does not have a statutory duty to respond to the Committee, a written response shall be invited within 2 months.
- 12.3. Where scrutiny is being undertaken in relation to the Council's statutory Health or Crime and Disorder Scrutiny functions this will be done in accordance with the relevant legislation and statutory guidance.

## **13. Joint Committees**

- 13.1. Overview and Scrutiny Committees may jointly scrutinise a particular matter to provide for effective Overview and Scrutiny. To ensure agile scrutiny can take place, there will be a presumption that this will be undertaken by a lead Overview and Scrutiny Committee, with invitation extended to the Chairs of other relevant Committees to attend and contribute to discussions. The Monitoring Officer will determine the lead Overview and Scrutiny Committee.
- 13.2. Where the Monitoring Officer determines that arrangements at 13.1 above will not lead to effective Overview and Scrutiny, a joint committee of more than one Overview and Scrutiny Committee may be formed. This will include all members of the relevant Overview and Scrutiny Committees. A Chair for the joint committee will be selected from between the Chairs of the relevant committees.
- 13.3. Determination of the matters at 13.1 and 13.2 above will be made by the Monitoring Officer in consultation with the Chairs and Vice-Chairs of the Overview and Scrutiny Committees. Consultation will be informal and may take place virtually.
- 13.4. Joint Overview and Scrutiny Committees may be established with other councils to provide for effective Overview and Scrutiny of a particular matter. This includes making provision for joint Overview and Scrutiny Committees relating to Health, and to Crime and Disorder, as permitted under legislation.

## **14. Call-In**

- 14.1. All requests for Call-In shall be considered by the Overview and Scrutiny Board.
- 14.2. Where the relevant Overview and Scrutiny Committee referred to at 14.1 above has been engaged as part of the decision-making process of a decision subject



to Call-In the Monitoring Officer shall have discretion to refer the consideration of the Call-In to another Overview and Scrutiny Committee.

14.3. Call-In is the exercise of Overview and Scrutiny's statutory power to review an Executive Key Decision which has been made but not carried out. Call-In should only be used in exceptional circumstances. This Rule shall apply to a Key Decision of the Cabinet, the Leader, Portfolio Holder or a Key Decision made by an Officer and there are reasonable grounds that one of the following is applicable:

14.3.1. the decision was not made in accordance with the principles of decision-making set out in Article 12 of this Constitution;

14.3.2. the decision was neither published in accordance with the requirements for the Cabinet Forward Plan and not subject to the 'general exception' or 'special urgency' procedures set out in this Constitution; or

14.3.3. the decision is not in accordance with the Key Policy Framework or Budget.

14.4. When a Key Decision is made by the Cabinet, a member of the Cabinet, or a Committee or Sub-Committee of the Cabinet, or a Key Decision is made by an Officer with delegated authority from the Cabinet, the decision shall be published, by electronic means, and shall be made available for inspection normally within 2 clear working days of being made. All Councillors will be sent an electronic record of all such decisions within the same timescale.

14.5. Subject to any urgency provisions a decision taken and to which Rule 14.4 of this Part 4C refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made, recorded and published in accordance with Rule 14.4 of this Part 4C.

14.6. Where a decision referred to in Rule 14.4 of this Part 4C has been made, any three or more members of the Overview and Scrutiny Board, or alternatively 10 Councillors who are not members of the Cabinet, may submit a Call-In notice, in writing, within the period specified in Rule 14.5 of this Part 4C, to the Monitoring Officer or their nominated representative. Voting education members of an Overview and Scrutiny Committee may only sign a Call-In request when the matter relates to an education function. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. The Monitoring Officer will consider the Call-In request and confirm its validity or otherwise.

14.7. A valid Call-In request must comply with the following:

14.7.1. have the correct number of signatures; and

14.7.2. give reasons for the Call-In. The reasons must set out the grounds upon which the Call-In is based with reference to Rule 14.3 of this Part 4C and the evidence to support the grounds. Reasons must be

legitimate and not designed to create an obstacle to or delay the proper transaction of business nor should they be vexatious, repetitive or improper in any other way.

- 14.8. Where, as a result of a corporate electronic system failure or planned shutdown, the issuing of or access to decisions is prevented; or the submission of a Call-In notice by electronic means in accordance with the Council's Call-In provisions is prevented, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the Monitoring Officer, the period of delay is likely to extend beyond two clear working days, they shall agree with the Chair of the Overview and Scrutiny Board – as outlined at 14.1 above - alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to Call-In.
- 14.9. The decision subject to Call-In will be referred to the first available meeting of the relevant Overview and Scrutiny Board, or to a specially convened meeting of the Board should the Chair of the Board consider this to be appropriate in the circumstances.
- 14.10. The Overview and Scrutiny Board, having considered the matter, will decide whether to refer the decision to Cabinet for consideration. Where the matter is referred for reconsideration, advice must be offered by the Overview and Scrutiny Board. The Board may decide to offer no advice in which case the decision may be implemented immediately. Where advice is offered, the Cabinet will reconsider the decision in light of the advice provided.
- 14.11. Where a matter is considered and advice is offered by the Overview and Scrutiny Board, its advice will be submitted to the Cabinet for a decision to be made on the matter. The Cabinet shall consider the advice, but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming, with or without amendment, the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Councillor to submit a Call-In notice. The decision may then be implemented.
- 14.12. Once the Overview and Scrutiny Board has decided to offer advice or not to offer advice, no further Call-In notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by an Overview and Scrutiny Committee after the decision has been implemented in accordance with these Rules.
- 14.13. A submitted Call-In notice can only be withdrawn with the written consent of sufficient of the signatories such as to reduce the number of signatories to below the relevant threshold set out in Rule 14.6 of this Part 4C.
- 14.14. The Call-In facility does not apply to the determination of a Motion under Procedure Rule 10 of Part 4D (Notices of Motion).



## **15. Call-In and Urgency**

- 15.1. The Call-In procedure set out above shall not apply where the Key Decision being taken by the Cabinet, the Leader, Portfolio Holder or an Officer is urgent.
- 15.2. A decision will be urgent if any delay, caused by the Call-In process, would be likely to seriously prejudice the Council's or the public's interests.
- 15.3. The Chair of the Overview and Scrutiny Board or, in their absence, the Vice-Chair or, in their absence, the Chair of the Council must agree that the decision should be treated as urgent, and that the Call-In procedure should not apply.
- 15.4. In the absence of the Chair of the Council, the Vice-Chair's consent shall be required. In the absence of all of the above Councillors, the Chief Executive's, or their nominee's, consent shall be required.

## **16. Councillor Call for Action**

- 16.1. Any Councillor may submit a Councillor Call for Action.
- 16.2. The Councillor Call for Action is intended to be a process of last resort and therefore a Councillor must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Chief Executive.
- 16.3. The Councillor Call for Action will be placed on the next available agenda of the relevant Overview and Scrutiny Committee.
- 16.4. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and, in the case of refusal to undertake a review, then reasons must be provided.

## **17. The Party Whip**

The use of the Party Whip is incompatible with the role of Overview and Scrutiny and shall not be used.

## **18. Procedure at Overview and Scrutiny Meetings**

- 18.1. Matters to be considered will be set out in an agenda, together with appropriate and relevant supporting papers.
- 18.2. The Overview and Scrutiny meeting shall consider the following business:
  - 18.2.1. record of the last meeting;
  - 18.2.2. declarations of interest;
  - 18.2.3. public items;
  - 18.2.4. consideration of any matter referred to the Committee by Full Council or by the Cabinet;

- 18.2.5. consideration of any matter referred to the Committee for advice in relation to Call-In of a decision;
- 18.2.6. responses of the Cabinet on reports of the Overview and Scrutiny meeting;
- 18.2.7. the business otherwise set out on the agenda for the meeting; and
- 18.2.8. the Overview and Scrutiny Committee's Work Plan, including requests for items of scrutiny from Councillors and members of the public in accordance with the procedure set out in this Constitution.

## PART 4D

# MEETING PROCEDURE RULES

## D. Meeting Procedure Rules

### 1. Schedule of meetings

1.1. Full Council will determine the annual schedule of meetings for the Council, Cabinet, Committees and Sub-Committees, including the date, time and location. Where practicably possible, the month of August should be avoided when scheduling meetings, briefings, workshops, training and extraordinary meetings. There will be a general presumption against alterations to the date, time and venue for meetings.

1.2. In the event of exceptional circumstances beyond the control of the council or where it would be detrimental to the effective delivery of council business to proceed with a scheduled meeting, the Chair, in consultation with the political leaders, may alter the date, time and/or location of a meeting of council.

Council

1.3. An Extraordinary Meeting of the Council can be called by the Chair, or five Councillors can ask the Chair, in writing, to call an Extraordinary Meeting. If the Chair does not agree, then those Councillors can call the meeting by giving written notice to the Monitoring Officer. The Monitoring Officer, in consultation with the Chair, may also call an Extraordinary Meeting.

Council

1.4. When it is necessary to alter the date, time and/or location of the Cabinet, a Committee or Sub-Committee meeting, or to arrange a special meeting of the Cabinet, a Committee or Sub-Committee, the Monitoring Officer or appropriate Democratic Services Officer will consult the Leader/Chair of the relevant Cabinet, Committee or Sub-Committee before any action is taken. The Leader/Chair of the Cabinet, Committee or Sub-Committee will then determine the matter.

Cabinet,  
committees and  
sub-committees

### 2. Election of Chair and Vice-Chair

2.1. At the Annual Meeting, the Council will elect its Chair and Vice-Chair.

Council

2.2. At the first meeting of a Committee or Sub-Committee following the annual meeting of the Council, the Committee or Sub-Committee will elect its Chair and Vice-Chair.

Committees and  
sub-committees

2.3. The Chair, or in their absence the Vice-Chair (who will have the same powers and duties as the Chair), will preside at meetings. Where both the Chair and Vice-Chair are absent, the meeting will appoint another Councillor, other than a member of the Cabinet, to chair the meeting, who will have the same powers and duties as the Chair.

Council,  
committees and  
sub-committees

2.4. The Chair of the relevant meeting for the preceding year, or in their absence the Vice-Chair, shall preside over the election of Chair. In the absence of both the preceding Chair and Vice-Chair for a Committee or Sub-Committee, the Chair of the Council, or in their absence the Vice-Chair of the Council, shall preside over the election of Chair. Where both the Chair and Vice-Chair of the Council are absent, the membership shall agree, prior to the commencement of the formal meeting, another Councillor from the membership to preside over the election of

Council,  
committees and  
sub-committees

Chair. The person presiding over the election of Chair shall be entitled to a casting vote in the event of an equality of votes.

- 2.5. The meeting may elect, from among the voting members, a councillor to the office of Chair and Vice-Chair. For the avoidance of doubt, a councillor who is absent and substituted for the meeting at which the election takes place is not eligible for nomination.
- 2.6. In the event that an ineligible councillor is elected to office, that councillor shall not be permitted to take office and the candidate with the second-highest number of votes, where a ballot is conducted, shall be duly elected.

### **3. Records of Attendance**

The Monitoring Officer will keep a record of Councillors attending any meeting of the Council, the Cabinet, any Committee, or Sub-Committee.

### **4. Quorum**

- 4.1. No business shall be dealt with at the Council meeting if there are fewer than one quarter of Councillors who are members of that body present at the meeting. Where the meeting has started, and the number of Councillors present is fewer than one quarter of the number of Councillors, the Chair will adjourn the meeting. Where the Chair does not give a date and/or time for the consideration of the remaining business, all business not completed will be considered at the next meeting.
- 4.2. The quorum of a meeting of the Council's Committees and Sub-Committees will be one third of the number of voting members or three voting members, whichever is the greater, except for the Cabinet which will be three to include the Leader or in their absence, the Deputy Leader. The quorum for the Childrens Services Overview and Scrutiny Committee shall be one third of members of the Committee excluding the voting co-optees.

Council

Cabinet,  
committees and  
sub-committees

### **5. Order of business**

Business shall be dealt with in the order in which it is set out in the agenda unless the Chair or the meeting decides otherwise.

### **6. Duration of meetings**

- 6.1. Upon a meeting duration reaching two hours without a previous adjournment, the Chair shall, unless in their opinion it is expedient to continue to the end of remaining business, adjourn the meeting at the end of the item under discussion for a short adjournment the duration of which is at the Chair's discretion but must not exceed 30 minutes.
- 6.2. Rule 6.1 does not preclude a Motion without Notice being moved under Procedure Rule 11 to adjourn a meeting.

<div>Local Government Act 1972, Schedule 12, Part 1, (S.4)</div>	<div>7. Urgent Business</div> <div>7.1. Business cannot be dealt with at a meeting unless it is included in the agenda and made available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.</div> <div>7.2. The Chair of the meeting may agree to deal with an item of business at the meeting if, in their opinion, the matter is urgent given the circumstances requiring a decision. The Chair’s ruling and the reasons for urgency will be recorded in the minutes of the meeting.</div>	<div>Council, committees and sub-committees</div>
<div>8. Confirmation of Minutes</div> <div>Local Government Act 1972, (S.100B)</div>	<div>8.1. Minutes of the last meeting must be confirmed at the next ordinary meeting.</div> <div>8.2. Only matters relating to the accuracy of the minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Chair shall sign the minutes.</div> <div>8.3. The minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chair.</div> <div>8.4. Councillors may ask a question or comment on any minute. The Chair of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.</div> <div>8.5. Where a Councillor has a question or comment on an Exempt or Confidential minute, the question or comment must be given in writing to the Monitoring Officer or their nominee at least one hour before the start of the meeting.</div> <div>8.6. Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.</div>	<div>Cabinet, committees and sub-committees</div> <div>Cabinet, committees and sub-committees</div>
	<div>9. Matters for decision by the Council</div> <div>9.1. All matters for decision by the Council (except any urgent items) shall be included with the Agenda.</div> <div>9.2. When the item is reached on the Agenda, the Leader, the relevant Portfolio Holder or the Chair of the relevant Committee will, where appropriate, move the recommendation or advice of the Cabinet or Committee, or endorsement of a Cabinet or a Committee decision. Another Councillor may second the motion and may reserve the right to speak until later in the debate.</div> <div>9.3. The Chair cannot ask the Council to agree to withdraw a recommendation of the Cabinet or a Committee unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Council.</div>	<div>Council</div>

## **10. Notices of Motion**

- 10.1. A notice of motion must relate to matters for which the Council has responsibility or which affect its area.
- 10.2. The procedures and arrangements for submitting and dealing with notices of motion are as follows.

### **Procedure**

- 10.3. Notice of every motion (other than a motion which under Procedure Rule 11 of this Part 4D may be moved without notice) shall be given in writing, signed by the Councillors giving the notice, and delivered, at least seven clear working days before the next meeting of the Council, to the office of the Monitoring Officer by whom it shall be dated, in the order in which it is received. Such Notice can be provided electronically.

### **Motions to be set out in Agenda**

- 10.4. The agenda for every ordinary meeting of the Council will set out all motions of which notice has been duly given, unless the Councillor giving the notice has intimated in writing, when giving it, that they proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the summons according to whether they relate to Cabinet or non-Cabinet functions but otherwise in the order in which they have been received.

### **Withdrawal of Motion which is before the Council**

- 10.5. Where a notice of motion is before the Council having been formally moved and seconded and the mover wishes subsequently to withdraw it, with the consent of the seconder, may do so in writing and with the consent of the Chair of the Council again in writing.

### **Motions not moved**

- 10.6. If a motion set out in the agenda is not moved either by a Councillor who gave notice of it or by some other Councillor on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

### **Dealing with the Motion**

- 10.7. Subject to Rule 10.8 of this Part 4D there is a presumption that the motion will be debated and dealt with at the Council meeting to which it is submitted and there shall be no automatic referral to another body of the Council.

### **Automatic reference to the Cabinet – Cabinet Function**

- 10.8. If the subject of any motion of which notice has been duly given comes solely within the powers, duties and responsibilities of the Cabinet, it shall, when it has been moved and seconded, stand referred to the Cabinet to determine. The mover on formally moving the motion has the right to speak to the motion. The seconder may also speak to the motion. The Chair will allow a period of fifteen

minutes for a debate on any such notices of motion. This period shall include any speeches made by the mover and seconder of the motion in question. At the end of the debate if sooner or upon the expiration of the fifteen minutes, the appropriate Cabinet member shall have an opportunity to respond. No speeches including the response shall exceed three minutes. No amendments to the motion may be moved. The motion will then stand referred to the Cabinet.

10.9. There are no rights of “Call-In” or “reference to the Council” where the Cabinet has discharged a motion submitted under this Procedure Rule.

### **Mover of a Motion: Attendance at Committee and Sub-Committee**

Committees and  
sub-committees

10.10. Where a motion has been referred from the Council to a Committee or Sub-Committee for consideration and report, the mover of the motion must attend the meeting and explain the motion.

10.11. The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and they will be sent a copy of the relevant papers.

## **11. Motions moved without notice**

11.1. Only the following motions and amendments can be moved at a meeting without notice:

- 11.1.1. appointment of a Chair of the meeting at which the motion is made;
- 11.1.2. motions relating to the accuracy of the minutes;
- 11.1.3. that an item of business specified in the summons should have precedence;
- 11.1.4. reference to the Council, a Committee, Sub-Committee, or the Cabinet for consideration or reconsideration;
- 11.1.5. appointment of or appointment to Committees, Sub-Committees, or the Cabinet occasioned by an item mentioned in the summons to the meeting;
- 11.1.6. receipt of Records of Decisions and Minutes of Committees and Sub-Committees;
- 11.1.7. adoption of recommendations of the Cabinet, Committees and Sub-Committees and any consequent resolutions;
- 11.1.8. that leave is given to withdraw a motion;
- 11.1.9. receipt of reports of officers and any consequent resolutions;
- 11.1.10. extending the time limit for speeches;
- 11.1.11. amendment to motions;
- 11.1.12. that the meeting proceed to the next business;
- 11.1.13. that the question be now put;



- 11.1.14. that the debate be now adjourned;
- 11.1.15. that the meeting do now adjourn;
- 11.1.16. suspending Procedure Rules, in accordance with Procedure Rule 21 of this Part 4D;
- 11.1.17. motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public;
- 11.1.18. that a Councillor named under Procedure Rule 25 of this Part 4D should not be heard further;
- 11.1.19. by the Chair under Procedure Rule 25 of this Part 4D, that a Councillor do leave the meeting; and
- 11.1.20. giving consent of the Council where consent of the Council is required by these Procedure Rules.

## **12. General Questions by Councillors at Council meetings**

Council

- 12.1. A Councillor may ask the Chair, the Leader, a Portfolio Holder or the Chair of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.
- 12.2. Questions must be sent in writing to the Monitoring Officer or their nominated representative at least five clear working days before the meeting. In calculating the period the date of the meeting and the date of submission of the question are not included in the calculation.
- 12.3. The Chair may agree to take urgent questions where they consider that it has not been possible for a Councillor to give the required notice, provided that a copy of the question is given to the Monitoring Officer before the meeting starts.
- 12.4. A question will be rejected by the Chair in consultation with the Monitoring Officer where it:
  - 12.4.1. does not relate to a matter for which the Council has a responsibility, or which affects the Council's administrative area;
  - 12.4.2. is defamatory, frivolous, offensive, vexatious, unlawful, solely or mainly rhetorical or otherwise improper;
  - 12.4.3. requires the disclosure of Confidential or Exempt Information as defined by the Access to Information Procedure Rules;
  - 12.4.4. names or identifies individual service users, Officers or members of staff of partner agencies;
  - 12.4.5. is considered to be inappropriate for the particular meeting; or
  - 12.4.6. duplicates a question that has been asked within the preceding six months.
- 12.5. A Councillor may ask no more than two questions at any meeting, but the Councillor may not ask their second question until other Councillors, if any, have asked their first questions, subject to the Chair's discretion.

- 12.6. Subject to Rule 12.5 of this Part 4D, questions will be asked in the order of receipt and answered without discussion. In replying, the Councillor answering the question will use their reasonable endeavours to address the matters raised in the question. The Councillor to whom the question is addressed may decline to answer any question or may: reply direct, refer the question to another appropriate Councillor to respond, reply by reference to a publication, reply by written answer with a copy to such other Councillors as the Council agrees, or refer the question to an appropriate Committee or to the Cabinet.
- 12.7. Following the answer to each question, the questioner may only ask one supplementary question which must relate to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Councillor answering the supplementary question will decide whether or not to reply.
- 12.8. Where a question submitted under this Rule relates to a matter that appears on the Agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter, and the time taken to deal with such questions will not form part of the 30 minutes set aside for General Questions.
- 12.9. The time allowed for Councillors to ask questions under this Rule will be a maximum of 30 minutes but is otherwise a matter for the discretion of the Chair who, in exercising their discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

### **13. Public participation at meetings**

- 13.1. The following procedures enable members of the public to submit questions, make statements and present petitions at ordinary meetings of the Council, Cabinet, Committees and Sub-Committees.
- 13.2. The time for questions, statements and petitions from members of the public shall normally commence immediately after the item 'Declarations of Interest' on the agenda for the meeting and shall be restricted to a total of 15 minutes, although, at the discretion of the Chair of the Council or the Chair of the meeting, this time may be extended. Where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Councillors.
- 13.3. This procedure does not apply to Planning Committees, Licensing Committee, Appeals Committee or the Transportation Advisory Group. In so far as the law allows, each of those Committees and Groups may adopt one or more protocols / codes for establishing the arrangements and proceedings regarding any public representation at the Group, Committee or any of its Sub-Committees.
- 13.3.1. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee or Group. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

Council,  
Cabinet,  
Committees and  
Sub-Committees  
(except  
Planning,  
Licensing,  
Appeals  
committees and  
consultative  
groups) unless  
otherwise stated

- 13.3.2. A protocol / code may make provision limiting the ability of a member of the public to speak on any item and may also limit the right of a Councillor who is not appointed to that Committee or Group to speak.
- 13.3.3. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

## Public Questions

13.4. Members of the public may ask questions at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for questions is as follows:

- 13.4.1. subject to the requirements of this Protocol, a member of the public who lives or works in the area of the Council may submit a written question to the Leader of the Council, a Portfolio Holder or the Chair of the Council or of a Committee of the Council;
- 13.4.2. the person to whom the question is submitted shall respond to the question at the relevant meeting unless the matter is of such a specialist nature that it requires a response from the Head of Paid Service, Monitoring Officer or Section 151 Officer, or a specialist officer nominated by one of those officers;
- 13.4.3. a person wishing to ask a question shall submit the question in writing which must be received by the Monitoring Officer or their nominated representative by mid-day three clear working days before the meeting at which it is to be asked. The person's name and address must be included. In calculating this period the date of the meeting and date of submission are to be excluded;
- 13.4.4. where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;
- 13.4.5. a question at Council shall relate to Council business, shall not exceed 150 words in length and shall be so framed as to elicit information rather than make a statement; Council
- 13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed 150 words in length; Cabinet, Committees and Sub-Committees
- 13.4.7. for the avoidance of doubt, headings, abbreviations, acronyms and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;
- 13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year; Council

- 13.4.9. no member of the public may ask more than three questions on any individual item of business as defined on the agenda of the meeting. Any person submitting multiple questions may not ask their second, or where applicable, third question until other members of the public, if any, have asked their first, or where applicable, second question, subject to the Chair's discretion;
- 13.4.10. questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- 13.4.11. the person asking the question may attend the meeting to read out their question, nominate another member of the public or, if they prefer, ask for an officer of the Council to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to read out the question on their behalf, the question will not be read out, but will be responded to by way of written answer;
- 13.4.12. if questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the question out of order;
- 13.4.13. in exceptional cases members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a question in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the question in consultation with the appropriate Chair.

## **Public Statements**

13.5. Members of the public may make statements at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for statements is as follows:

- 13.5.1. subject to the requirements of this protocol, a member of the public who lives or works in the area of the Council may submit a written statement to the Council, Cabinet, Committee or a Sub-Committee of the Council;
- 13.5.2. a person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Monitoring Officer or their nominated representative by midday the day before the meeting at which it is to be raised. The person's name and address must be included;
- 13.5.3. a statement at Council shall relate to Council business and shall not exceed 150 words in length. At Full Council no member of the public may submit more than four statements in any one Municipal Year;

Council



- 13.7.1. include a clear and concise statement covering the subject of the petition;
  - 13.7.2. state what lawful action the petitioners wish the Council to take;
  - 13.7.3. be signed by at least 20 people supporting the petition;
  - 13.7.4. include the name and address (in a legible format) and signature of any person supporting the petition together with their connection with the Council's area (i.e., lives, works or studies); and
  - 13.7.5. contact details, including name, address, telephone number (and where possible, an e-mail address) of the petition organiser.
- 13.8. The petition organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.
- 13.9. An electronic petition system is available on the Council's website.
- 13.10. If a petition does not include all of the information required by this scheme it may not be accepted by the Monitoring Officer. In that case, the Council will write to the petition organiser to explain the reasons why.

#### **Petitions not included in this scheme**

- 13.11. The Council will not take action on any petition which the Monitoring Officer considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in the acknowledgement of the petition.
- 13.12. This petition scheme does not apply to:
- 13.12.1. any petition which is not about a matter for which the Council has a responsibility, or which affects its area;
  - 13.12.2. any petition relating to a planning or licensing application or decision (which will be referred by the Monitoring Officer to the relevant officer/committee so that it can be considered in accordance with arrangements that the relevant committee has agreed);
  - 13.12.3. a statutory petition (for example requesting a referendum);
  - 13.12.4. a petition that is related to confidential staffing matters; or
  - 13.12.5. a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.
- 13.13. In addition, any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months is excluded.
- 13.14. Details of petitions affecting particular wards that have been excluded will be sent to the Councillors representing those wards.

13.15. In exceptional cases, members of the public who do not live, work or study in the Council's area but who are, nevertheless, affected by a decision or potential decision of the Council can submit a petition in accordance with this scheme and the Monitoring Officer will determine the relevance of such a petition in consultation with the Chair of Council or with the Chair of the appropriate Committee.

### **Guidelines for submitting a petition**

13.16. Petitions can be submitted in paper format or electronically through the Council's e-petition portal.

13.17. Paper petitions can be submitted to the Monitoring Officer at the main office of the Council.

13.18. The Council will accept e-petitions hosted by third parties which meet the requirements of this scheme, in particular those required by Rule 13.7 of this Part 4D.

13.19. If the appropriate threshold is met, petitions can also be presented to a meeting of the Council or its Committees or to the Cabinet. Where the threshold is met for debate at a meeting of Council the petition organiser should contact the Monitoring Officer at least 10 working days before the meeting.

### **How the Council will respond to a petition**

13.20. The Council will acknowledge receipt of a petition within 10 working days setting out what the Council plans to do with the petition. The acknowledgment will let the petition organiser know what the Council plans to do with the petition and when they can expect to hear from the Council again. The petition will be published on the Council's website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the Councillors representing those wards will be notified of the receipt of the petition.

13.21. If paragraph 13.13 applies to the petition, then the Council's acknowledgement will include details of any previous petition on the same topic. If the Council is still considering a petition on the same or similar topic, the acknowledgement will tell the petition organiser that the new petition has been amalgamated with the first petition.

13.22. The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:

- 13.22.1. taking the action requested in the petition;
- 13.22.2. considering the petition at a meeting of the Council or Cabinet;
- 13.22.3. holding an inquiry into the matter;
- 13.22.4. holding a public meeting;
- 13.22.5. holding a meeting with petitioners or the petition organiser;
- 13.22.6. undertaking research into the matter;



- 13.22.7. writing to the petition organiser setting out the Council's views about the request in the petition;
- 13.22.8. referring the petition to an Overview and Scrutiny Committee or another Committee of the Council for consideration;
- 13.22.9. referring the petition, in the first instance, to another formal body of the Council where the subject matter of the petition falls within the scope of the terms of reference of that body.

13.23. The Council's response may also depend on the number of people who have signed the petition. The table below sets out the thresholds:

Number of signatories	Response
20 – 49	Response from relevant director / service head (treated as standard correspondence)
50 – 1,999	Response from relevant Cabinet member
2,000 +	Referred for debate at a meeting of Full Council

13.24. If the Council is able to do what a petition asks, the acknowledgement to the petition organiser may confirm that the Council has taken the action requested and the petition will be closed.

13.25. Where the petition is referred to the relevant Cabinet member for a response, the petition organiser will be invited to make a written statement in support of the petition (if one has not already been included in the petition).

13.26. If the petition has enough signatures to be referred to trigger a debate at a meeting of the Full Council, then the acknowledgment will confirm this and inform the petition organiser when and where the relevant meeting will take place. The Council will try to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.

Council

13.27. Where the petition is referred to the Full Council, the petition organiser (or any person authorised by them) will, if they so wish, be given a period not exceeding three minutes to present the petition at the meeting and unless the petition is referred to the Overview and Scrutiny Committee or another Committee or Sub-Committee for consideration without debate; the petition will be debated by members. Members may ask questions of the petition organiser.

Council

## 14. Rules of Debate

### Motions and Amendments

14.1. No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chair, motions or amendments shall be put in writing and handed to the Chair before they are further discussed or put to the meeting.



14.2. At meetings other than those of the Full Council, the Chair of that meeting may, at their discretion, allow a motion or amendment to be put which is not in writing, provided that the Chair has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 10 of this Part 4D.

Cabinet,  
committees and  
sub-committees

### **Seconders's Speech**

14.3. When seconding a motion or amendment a Councillor may advise the Chair that they will reserve their right to speak until a later period in the debate.

### **Only One Councillor to Stand at a Time**

14.4. When speaking at the Council meeting a Councillor shall stand if they are able and address the Chair. While a Councillor is speaking the other Councillors will remain seated, unless rising on a point of order or in personal explanation.

Council

### **Content and Length of Speeches, Questions and Responses to Questions**

14.5. A Councillor will confine their speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Councillors when the Council is agreeing a budget, or where the Council, Committee or Sub-Committee otherwise agrees, no speech, question or response to a question will exceed three minutes.

14.6. In advance of the meeting at which the Council is due to agree a budget, the Council's Political Groups may agree a protocol which makes provision for a limited number of speeches to be made on behalf of each Political Group, and which exceed the three minute limitation contained in these Rules. The Chair will have discretion as to how such a protocol will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the three minute limitation might be permitted to operate.

Council

### **When a Councillor may speak again**

14.7. At the Council meeting a Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

Council

- 14.7.1. to speak once on an amendment moved by another Councillor;
- 14.7.2. if the motion has been amended since they last spoke, to move a further amendment;
- 14.7.3. if their first speech was on an amendment moved by another Councillor, to speak on the main issue, whether or not the amendment on which they spoke was carried;
- 14.7.4. in exercise of a right of reply;
- 14.7.5. on a point of order referring to the specific Procedure Rule;
- 14.7.6. by way of personal explanation; or

- 14.7.7. to move one of the motions specified in Rule 14.16 of this Part 4D when the procedure in those paragraphs shall be followed.

14.8. At Cabinet, Committees or Sub-Committees Councillors may, at the discretion of the Chair, speak more than once.

Cabinet,  
committees and  
sub-committees

### **Amendments to Motions**

14.9. An amendment must be relevant to the motion and shall propose to do one of the following:

- 14.9.1. to leave out words;
- 14.9.2. to leave out words and add others; and/or
- 14.9.3. to insert or add words,

but such amendment shall not have the effect of negating the motion before the Council.

### **Number of Amendments**

14.10. Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of.

### **Status of Amendments**

14.11. If an amendment is lost, another amendment may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

### **Alterations to Motions or Amendments**

14.12. A Councillor may alter a motion or amendment of which they have given notice and may also, with the consent of the seconder, alter a motion or amendment which they have moved. In both cases, the consent of the Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

### **Withdrawal of Motion**

14.13. A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

### **Right of Reply**

14.14. The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

- 14.15. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have the right of reply to the debate on their amendment immediately before the mover of the original motion.

### **Closure Motions**

- 14.16. A Councillor may move, without comment, at the conclusion of a speech of another Councillor, "That the meeting proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the meeting do now adjourn". When one of these Motions has been seconded the Chair shall proceed as follows:

- 14.16.1. on a motion to proceed to next business - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;
- 14.16.2. on a motion that the question be now put - unless in their opinion the matter before the meeting has been insufficiently discussed, they shall put to the vote the closure motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote; and
- 14.16.3. on a motion to adjourn the debate or the meeting - if in their opinion the matter before the meeting has been insufficiently discussed on that occasion they shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

### **Points of Order**

- 14.17. A member of the meeting may rise on a Point of Order and shall be entitled to be heard immediately. A Point of Order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the Councillor shall specify the Procedure Rule or statutory provision and the way in which they consider it has been breached. The ruling of the Chair of the meeting on a Point of Order shall not be open to discussion and shall be final.

### **Personal Explanation**

- 14.18. A member of the meeting may rise in Personal Explanation and shall be entitled to be heard immediately. A Personal Explanation shall be confined to some material part of a former speech by them which may appear to have been misunderstood in the current debate. The ruling of the Chair of the meeting on a Personal Explanation shall not be open to discussion and shall be final.

### **Respect for the Chair**

- 14.19. At the Council meeting whenever the Chair rises during a debate a Councillor then standing shall sit down and the Council shall be silent.

Council

14.20. In Committee or Sub-Committee meetings, whenever the Chair rises from their seat, the Councillors should remain in their seats and the Committee or Sub-Committee shall be silent.

Committees and  
sub-committees

## **15. Rescission of earlier resolution**

15.1. Subject to Rule 15.2 of this Part 4D, at a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period.

Council

15.2. Such a motion may be moved if:

15.2.1. It is recommended by the Cabinet or a Committee

15.2.2. Notice of such motion has been given under Rule 10 of this Part 4D and signed by at least one quarter of Councillors.

## **16. Requests by Councillors for items of business to be included on agendas of a Committee or Sub-Committee**

Committees and  
sub-committees

16.1. This Rule does not apply to special meetings of Committees and Sub-Committees or to the Cabinet.

16.2. A Councillor may, by notice given to the Monitoring Officer or their nominated representative no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.

16.3. A Councillor may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Councillor.

16.4. This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Council within the preceding 12 months.

16.5. Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business (public and non-public business).

16.6. This procedure will apply to Councillors exercising their rights under The Local Government Act 2000 as amended by Section 9FC of the Localism Act 2011, to request that an item be included on the Agenda of the Overview and Scrutiny Committees where the item is within the remit of that particular body. It should be read in conjunction with the Overview and Scrutiny Procedure Rules set out in Part 4C of this Constitution. The restrictions in Rule 16.3 of this Part 4D on the number of items shall not apply.

Overview and  
Scrutiny  
Committees

## **17. Disclosure of Confidential/Exempt Matters**

17.1. No Councillor shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not

for publication” unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet, a Committee or Sub-Committee.

17.2. No Councillor shall disclose to any person other than a Councillor any matter arising during the proceedings of the Council, the Cabinet, any Committee, or Sub-Committee and which comes to their knowledge by virtue of their office as a Councillor where such disclosure would prejudice the interest of the Council or would be contrary to law.

17.3. No Councillor shall disclose to any person any decision or proceedings of that body except when one of the following applies (provided that nothing in this paragraph shall authorise disclosure which would contravene Rule 17.1 or Rule 17.2 of this Part 4D):

17.3.1. a report on the matter has been circulated to the Council by that body;

17.3.2. the decision has become public knowledge; or

17.3.3. the matter comes within the powers of that body and a final decision has been made upon it.

## **18. Voting**

18.1. It is the responsibility of each councillor to properly inform themselves and ensure that they are sufficiently apprised of any matter before voting.

18.2. Voting will be by a show of hands or where practical and the means are available to those present, by electronic means. Where there is a clear majority in favour of a proposal the person presiding will ask if any Councillor wishes to vote against or abstain from a proposal.

18.3. When a Councillor asks for a recorded vote to be taken, and one quarter of Councillors present support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.

18.4. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

18.5. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.

18.6. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

18.7. Any right of a Councillor who is appointed to any body of the Council to vote on a particular item may be limited by proceedings contained or identified in this Constitution.

18.8. For the avoidance of doubt, any Code or Protocol which is, or is identified as to be, incorporated into Part 6 of this Constitution shall be construed as being proceedings and part of these procedure rules.

18.9. Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-In power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by the Planning Committees.

## **19. Offices and Appointments**

19.1. A secret ballot will be held to elect the Chair and Vice-Chair of the Council, Committees and Sub-Committees, or Councillors to any office or position where more than one person is nominated.

19.2. If a secret ballot is held and no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further ballots will be held until one person receives a clear majority.

19.3. The Chair, or person presiding, will have a second or casting vote where the votes are equal.

## **20. Variation and revocation of Procedure Rules**

Any motion under Procedure Rule 10 (Motions on Notice) of this Part 4D, to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Council

## **21. Suspension of Procedure Rules**

21.1. Any of the Procedure Rules may be suspended to the extent permitted within the Rules and the law in respect of any business at a meeting of the Council, Cabinet, a Committee or Sub-Committee where its suspension is moved.

21.2. A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 11 of this Part 4D) unless there shall be present at least one-half of the Members of the Council or that Cabinet, Committee or Sub-Committee respectively. The extent and duration of the suspension will be proportionate to the result to be achieved taking into account the purposes of the Constitution set out in Article 1.

## **22. Interpretation of Procedure Rules**

Subject to taking advice from the Monitoring Officer or their nominated representative, the ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

## **23. Substitute Members**

23.1. A Political Group may, by notice to the Monitoring Officer or their nominated representative, appoint a substitute member from within its Group for a meeting of a Committee or Sub-Committee.

Committees and  
sub-committees

23.2. Members of the Cabinet shall not be nominated as substitutes for any Overview and Scrutiny Committee or Regulatory Committee.

23.3. Where a Political Group intends to vary its representation on a Committee or Sub-Committee, the Group Leader (or their nominated representative) shall inform the Monitoring Officer or their nominee prior to the meeting, and the Substitute Member shall inform the Chair at the beginning of the meeting. The outgoing member shall cease to be the Political Group's representative on that Committee or Sub-Committee for the duration of that meeting or any adjournment of it, and that substitute Councillor shall become the representative on the Committee or Sub-Committee for the same period. At the end of the meeting, the outgoing member shall resume their representation on the Committee or Sub-Committee in question.

23.4. On receipt of a Notice under this Procedure Rule the Monitoring Officer or their appointed nominee shall, at the meeting (prior to the commencement of the main business) inform the Committee or Sub-Committee.

23.5. For the avoidance of doubt, there are no substitute arrangements in respect of the Cabinet and informal Consultative Groups.

## **24. Attendance of Councillors at Committees and Sub-Committees of which they are not members**

Committees and  
sub-committees

24.1. Notwithstanding their rights as a member of the public, a Councillor may attend any meeting of a Committee or Sub-Committee to which they have not been appointed, for the purposes of performing their duties as a Councillor, including when Exempt or Confidential business is transacted subject to the provisions of the Access to Information Rules.

24.2. A Councillor will be provided with access to a copy of the agenda and relevant papers when they arrive at the meeting, subject to the Access to Information Rules set out at Part 4A of this Constitution.

24.3. The Councillor has no right to vote but may speak with the consent of the Chair of the meeting.

## **25. Disorderly conduct by Councillors**

25.1. If at a meeting any Councillor, in the opinion of the person presiding, misconducts themselves in any way, the person presiding shall warn them. If the misconduct continues, the person presiding or any other Councillor may move "That the Councillor be not further heard for the item being debated" or "That the Councillor be not further heard for the remainder of the meeting". The motion, if seconded, shall be put and determined without discussion.

25.2. If the Councillor continues the misconduct after a motion under the Rule 25.1 of this Part 4D has been carried, the person presiding may: either move "That the Councillor do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.



25.3. In the event of general disturbance by Councillors at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding, will have the power to adjourn the meeting.

## **26. Disturbance by members of the Public**

If a member of the public interrupts the proceedings at any meeting the person presiding shall warn them. If they continue, the person presiding shall order their removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

## **27. Submission of Notices by Councillors – Electronic Means**

A Councillor may communicate, by electronic means, any notice under any of the Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Councillor.

## **28. Overview and Scrutiny Committees/Sub-Committees**

In applying these Rules to the Overview and Scrutiny Committees and Sub-Committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 4C of this Constitution.

## **29. Site Visits and consideration of certain items at meetings - Planning Committees, Licensing Committee and Appeals Committee**

29.1. In so far as the law allows, the Planning Committee, Licensing Committee and Appeals Committee may each adopt one or more protocols / codes for establishing the arrangements and proceedings for any of the following purposes of that Committee or their Sub-Committees (if any):

- 29.1.1. the undertaking of a site visit; and
- 29.1.2. consideration of any matter relating to an actual or possible application, appeal and/or review for which it has responsibility including proceedings governing the consideration and assessment of any supporting information provided by a party in relation to any such matter.

29.2. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

29.3. A protocol / code may limit the voting ability of a Councillor who is appointed to any of those bodies in circumstances where the Councillor:

- 29.3.1. fails to attend the whole or any part of a site visit; and/or
- 29.3.2. is not present during the whole or any part of the consideration (including any officer presentation and/or public speaking) of an application, appeal and/or review (or related matter), including



where such an item falls to be considered over more than one meeting.

- 29.4. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

## **30. Protocol for the Establishment and Running of Combined In-person and Virtual Attendance Meetings**

### **Introduction**

- 30.1. This Procedure Rule provides the means and guidance for the conduct of combined in-person and virtual attendance meetings of the Council and its committees.
- 30.2. The Procedure Rules should be read in conjunction with the Standing Orders and Procedure Rules within the Council's Constitution.

### **Notice of Meetings**

- 30.3. The Proper Officer will give the requisite notice to the public of the time of the meeting, and the Agenda, together with details of how to view the meeting via the following web site (<https://democracy.bcpccouncil.gov.uk/>)
- 30.4. Councillors will be notified of a remote meeting by email and all agenda papers will be available on the Council's website.
- 30.5. The 'place' at which the meeting is held may be a Council building or may, subject to applicable legislation, be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.

### **Access to Meetings**

- 30.6. Non-voting participatory Councillors will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely. If this is not possible, attendance may be through an audio link or by some other electronic means.
- 30.7. In the interests of general public health and notwithstanding the legal rights for public attendance, remote access for members of the public and councillors who are not attending to participate in the meeting together with press facilities, will be provided through webcasting.
- 30.8. It is important to note that the public accessing the meeting by remote means, as described in 30.7, is different from the public attending to exercise a right to

speaking. A technological failure removing the ability for the public to access the meeting by remote means may render the meeting incapable of proceeding.

### **Management of Remote Participation**

- 30.9. Any Councillor participating in a meeting remotely must, when they are speaking, be able to be heard (and ideally seen) by all other Councillors in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other Councillors participating.
- 30.10. In addition, a remote participant must be able to be heard by, and in turn hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.
- 30.11. The Chair will normally confirm at the outset and at any reconvening of a meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of the Full Council). Any Councillor participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants.
- 30.12. The attendance of those Councillors at the meeting will be recorded by the Democratic Services Officer.
- 30.13. The normal quorum requirements for meetings as set out in the Constitution will also apply to a remote meeting.
- 30.14. In the event of any apparent failure of the video, telephone or conferencing connection, the person presiding should immediately determine if the meeting is still quorate:
- 30.14.1. if it is, then the business of the meeting will continue; or
  - 30.14.2. if there is no quorum, then the meeting shall adjourn for a period specified by the person presiding to allow the connection to be re-established.
- 30.15. If the meeting was due to determine an urgent matter or one which is time limited and it has not been possible to continue because of technical difficulties, the Chief Executive, in consultation with the Monitoring Officer and where appropriate/possible the relevant Cabinet member, shall explore such other means of taking the decision as may be permitted by the Council's Constitution.
- 30.16. Should any aspect of an individual's remote participation fail, the person presiding may call a short adjournment of up to five minutes to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative (this is unlikely to be practical for a meeting of the Full Council). If the connection is not restored within that time, the meeting shall continue to deal with the business whilst this happens providing the meeting remains quorate and the public are able to hear.
- 30.17. In the event of connection failure, the Councillor(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established

to those Councillor(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item(s) of business. If the connection is successfully re-established, then the Councillor(s) will be deemed to have returned at the point of re-establishment.

30.18. Etiquette at the meeting is referred to further below.

### **Remote Attendance by the Public**

30.19. Any member of the public who has been given permission by the Chair to address a meeting in accordance with the Constitution must meet the same criteria as Councillors. Members of the public attending a meeting remotely must, when they are speaking, be able to be heard (and ideally seen) by Councillors in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other members participating.

30.20. Access to the meeting will be determined in accordance with the Meeting Procedure Rules set out at Part 4D of this Constitution. In such instances, an invitation to participate in the remote technology will be sent out.

30.21. Members of the public who have been given permission by the Chair to address a meeting may read out their question or written statement, of which prior notice will have been given, when invited to do so by the Chair.

30.22. As an alternative, members of the public who wish to address the meeting may submit a written statement that can be read out by the Chair at the appropriate time.

30.23. The Democratic Services Officer or meeting facilitator (see below) should be able to mute the member of the public once they have spoken, and remove them from the remote meeting on the instruction of the Chair, in order to maintain the good administration of the meeting or to retain order.

30.24. A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible.

### **Meeting Procedures**

30.25. A meeting facilitator, who may be the Democratic Services Officer but preferably in addition to, will control the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and member interaction, engagement and connections on the instruction of the Chair.

30.26. The Council will endeavour to put in place a technological solution that will enable Councillors participating in meetings remotely to indicate their wish to speak via this solution, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.

30.27. It will greatly assist the meeting if those Councillors who wish to speak on a particular item could indicate their wish to speak to the Chair and to the Democratic Services Officer in advance of the start of the meeting where

possible. Political groups are encouraged to co-ordinate this activity where possible, particularly in respect of Council and other meetings likely to result in a high number of requests to speak. This is particularly important if Councillors are unable to participate via video conference.

30.28. The Chair will follow the Rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches.

30.29. At the beginning of the meeting, the Chair will explain the protocol for Councillor and public participation and the rules of debate. The Chair's ruling during the debate will be final.

30.30. Councillors are asked to adhere to the following etiquette during remote attendance at a meeting:

30.30.1. members of the committee or body in question are asked to join the meeting no later than fifteen minutes before the start to allow themselves and Democratic Services the opportunity to test the equipment and verify identity;

30.30.2. any camera (video feed) should show a non-descript background or a virtual background and Councillors should be careful to not allow exempt or confidential papers to be seen in the video-feed;

30.30.3. Councillors must take care to type their name on joining the meeting in full, i.e. "Cllr Joanne Smith" (where the technological solution employed by the authority enables this);

30.30.4. all Councillors must have their microphones muted when not talking;

30.30.5. rather than raising one's hand or rising to be recognised or to speak, Councillors should avail themselves of the remote process for requesting to be heard;

30.30.6. Councillors will only speak when invited to by the Chair;

30.30.7. only one person may speak at any one time;

30.30.8. Councillors should turn on the microphone and also the video-feed (if available) then state their name before speaking; and

30.30.9. when referring to a specific report, page, or slide, mention the report, page, or slide so that all Councillors have a clear understanding of what is being discussed at all times.

30.31. Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chair will, as part of their introduction, explain the procedure for their participation. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.

30.32. When the Chair is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed the Chair will progress to a decision. Unless a Recorded Vote is called, the method of voting will be at the Chair's discretion and will be by one of the following methods:

30.32.1. a vote by electronic means; or

30.32.2. an officer calling out the name of each Councillor present with:

a) Councillors stating 'for', 'against', or 'abstain' to indicate their vote when their name is called; or

b) the Democratic Services Officer clearly stating the result of the vote and the Chair then moving onto the next agenda item.

30.32.3. by the general assent of the meeting.

30.33. Details of how Councillors voted will not be minuted unless a Recorded Vote is called. Where a Recorded Vote is requested the Chair will ask Councillors in turn to signify verbally whether or not they support that request.

### **Declarations of Interest**

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

### **Exclusion of Public and Press**

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

30.36. Each Councillor in remote attendance must ensure and confirm that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

30.37. Any Councillor in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of the Council's Code of Conduct.

## **Public Access to Meeting Documentation following the meeting**

30.38. Members of the public may access minutes, decisions and other relevant documents through the following website <https://democracy.bcpCouncil.gov.uk>. Requests for access to the list of background papers and other relevant documents should be by email to the relevant officers.

## PART 4E

# BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

## **E. Budget and Policy Framework Procedure Rules**

### **1. The Budget and Policy Framework**

- 1.1. The Budget and Policy framework refers to the financial and policy decisions of the Council where:
  - 1.1.1. the Leader and Cabinet makes recommendations for the budget decision to Full Council, and
  - 1.1.2. the Full Council makes the final decision to adopt the Leader and Cabinet's recommendations. If Full Council does not accept or fully accept the Leader and Cabinet's recommendations, the procedure below must be followed.
- 1.2. The Leader and Cabinet is responsible for the implementation of the Budget and Policy Framework.
- 1.3. The following rules are mandatory standing orders required to be adopted by the Council under the Local Authorities (Standing Orders) (England) Regulations 2001 to set out how the Budget Approval Rules will be agreed.

### **Policy Framework Decisions**

#### **2. Leader and Cabinet policy proposals**

- 2.1. The Leader and Cabinet will formulate draft plan or strategy decisions with the support of officers and will determine whether to:
  - 2.1.1. Undertake public or other stakeholder engagement and / or consultation; and/or
  - 2.1.2. Proactively engage with Scrutiny, including as part of the annual overview and scrutiny work plan.
- 2.2. The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft plan or strategy made to Full Council.
- 2.3. The Leader and Cabinet will submit its draft plan or strategy to Full Council for adoption.

#### **3. Council's Consideration of Leader and Cabinet draft plan or strategy**

- 3.1. Full Council will consider the draft plan or strategy and take one of the following decisions:
  - 3.1.1. Adopt the Leader and Cabinet's proposals and if so the draft plan or strategy is agreed as Council policy; or



- 3.1.2. Inform the Leader of any objections it has to the Leader and Cabinet's draft plan or strategy, including any amendments to the proposals.
- 3.2. If the Council has objections to the Leader and Cabinet's initial proposals, it must:
  - 3.2.1. Give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
  - 3.2.2. Specify a period ("the relevant period") of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may reconsider the draft plan or strategy.

### **Leader's consideration of the Council's objections**

- 3.3. The Leader may, within the relevant period, give notice in writing to the Monitoring Officer of their intention to:
  - 3.3.1. submit a revised draft plan or strategy to Full Council including the reasons for any amendments; and
  - 3.3.2. inform Full Council of its disagreement with the Council's objections to the draft plan and strategy and the reasons for the disagreement.
- 3.4. If the Leader does not take the above action within the relevant period, the Council's decision on the draft plan or strategy (with any amendments) will become effective at the expiry of the relevant period and notice will be given in accordance with the Access to Information Rules.

### **Full Council's final decision**

- 3.5. If the Leader gives notice in writing to submit a revised draft plan or strategy, or disagrees with the Council's objections to the original draft plan or strategy, the Full Council must meet to reconsider and agree the plan or strategy either:
  - 3.5.1. at the next ordinary Council meeting; or
  - 3.5.2. at an extraordinary Council meeting for this purpose if a decision needs to be made at a sooner date.
- 3.6. The Council's final decision to adopt the plan or strategy must take into account, where applicable, the Leader's revised draft plan or strategy or disagreement with the Council's objections.

## **The Budget Framework: Setting the Annual Council Tax and Budget**

### **4. The Formulation of Budget Proposals**

- 4.1. In the financial year, the Leader and Cabinet with the support of officers will formulate draft budget proposals and will:
  - 4.1.1. determine the process for any public or other stakeholder engagement and / or consultation; and/or
  - 4.1.2. agree with Overview and Scrutiny Committees a process for the scrutiny of the proposals.
- 4.2. The Leader and Cabinet will take into account the outcome of these processes in the formulation of the draft plan or strategy made to Full Council.
- 4.3. The Leader and Cabinet will submit its draft budget proposals to Full Council in accordance with the following procedure.

### **5. Leader and Cabinet's Budget Estimates or Amounts**

- 5.1. Subject to the exception in Rule 9, in any financial year the Leader and Cabinet shall submit to Full Council for its consideration in relation to the following financial year:
  - 5.1.1. Estimates of the amount to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32-37 or 43-49 of the Local Government Finance Act 1992;
  - 5.1.2. Estimates of other amounts to be used for the purpose of such a calculation;
  - 5.1.3. Estimates of such a calculation; or
  - 5.1.4. Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.
- 5.2. The proposals at 5.1 shall be called collectively the "Budget Estimates or Amounts".

### **6. The Budget Setting Meeting: Full Council's Consideration of the Budget Estimates or Amounts**

- 6.1. The Full Council shall consider the Budget Estimates or Amounts at its annual budget setting meeting.
- 6.2. If the Full Council approves the Budget Estimates or Amounts without amendment, this decision will be final.

6.3. If the Full Council has any objections to the Budget Estimates or Amounts, it must:

- 6.3.1. before it makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in 5.1 above or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992;
- 6.3.2. inform the Leader of any objections which it has to the Budget Estimates or Amounts; and give the Leader instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

## **7. Leader's Revised Budget Estimates or Amounts**

7.1. Where the Council gives instructions in accordance with rule 6 above, it must specify a period ("the relevant period") of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:

- 7.1.1. submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with Full Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the authority for Full Council's consideration; or
- 7.1.2. inform the Full Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

## **8. Full Council's Consideration of the Leader's Revised Budget Estimates or Amounts**

8.1. The Full Council must meet after the expiry of the relevant period to make calculations (whether originally or by way of substitute) in accordance with the sections referred to in 5.1 above or issue a precept under Chapter IV of Part I of the Local Government Finance Act 1992.

8.2. When making the decisions at 8.1, Full Council must take into account the Leader's submissions under Rule 7 including:

- 8.2.1. any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- 8.2.2. the Cabinet's reasons for those amendments;
- 8.2.3. any disagreement that the Cabinet has with any of the Council's objections; and
- 8.2.4. the Cabinet's reasons for that disagreement.

## **9. Exclusions**

9.1. Rules 5 to 8 shall not apply in relation to -

- 9.1.1. calculations or substitute calculations which an Authority is required to make in accordance with Section 52I, 52J, 52T or 52U of the Local Government Act 1992; and
- 9.1.2. amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## **10. Recorded Vote**

10.1. A recorded vote will be held for any vote taken at the Council's budget setting meeting, including in respect of amendments.

## **11. Decisions outside the Budget or Policy Framework**

11.1. Subject to the provisions of the Financial Regulations (Part 5 of the Constitution), the Cabinet, individual portfolio holders, individual officers, committees or joint arrangements discharging executive functions may only take decisions which are in line with the approved Budget.

11.2. If any of those bodies or persons wishes to make a decision which is contrary to the approved Budget Approval Rules, the decision may only be taken by Council, subject to the Rule below in respect of urgent decisions outside the Budget and Policy Framework.

11.3. If those bodies or persons detailed above want to make a decision which is or may be contrary to the Budget Approval Rules, they shall first consult and take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Budget Approval Rules.

11.4. If the advice of the Monitoring Officer or the Section 151 Officer is that the decision would not be in line with the existing Budget Approval Rules, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 12 below (urgent decisions outside the Budget Approval Rules) shall apply.

11.5. Council may either:

- 11.5.1. endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget Approval Rules. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- 11.5.2. amend the budget framework or policy concerned to encompass the decision or proposal of the decision taker responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the

- 11.5.3. Council be minuted and circulated to all councillors in the normal way; or
- 11.5.4. where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the decision taker to reconsider the matter in accordance with the advice of either the Monitoring Officer/Section 151 Officer and refer it back to the Cabinet. The decision taker must reconsider within 7 working days of the Council meeting; and
- 11.5.5. Whatever decision the Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the Budget Approval Rules will be unlawful.

## **12. Urgent decisions outside the Budget**

- 12.1. The Leader, the Cabinet, a Cabinet Committee, an individual member of the Cabinet, officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken if:
  - 12.1.1. any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest;
  - 12.1.2. it is not practical to convene a quorate meeting of the Full Council within the Access to Information Rules; and
  - 12.1.3. the Chair of a relevant Overview and Scrutiny committee agrees that the decision is a matter of urgency.
- 12.2. The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant Overview and Scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 12.3. Following the decision, the decision taker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **13. Virement**

- 13.1. Budget virement means a process of transferring budgeted sums from one budget line to another in the light of experience or to reflect anticipated changes. The Council's rules on virement are set out in the Financial Regulations (Part 5 of the Constitution), Corporate Scheme of Financial Delegation, Appendix 1.

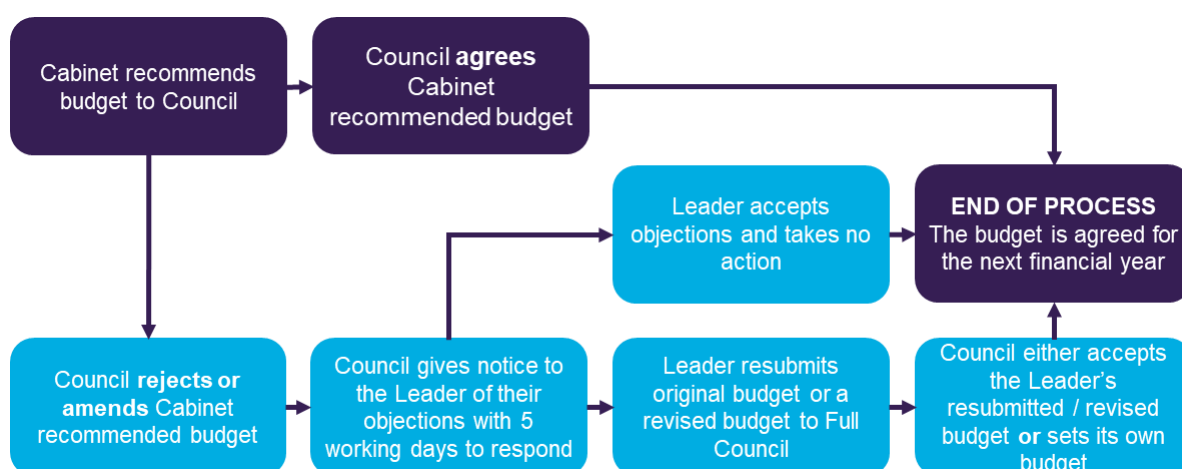
## **14. In-year changes to Policy Framework**

- 14.1. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- 14.1.1. which will result in the closure, amendment or discontinuance of a service or part of a service to meet a budgetary constraint;
- 14.1.2. are necessary to ensure compliance with the law, ministerial direction, or government guidance; and
- 14.1.3. which are within the scope set out for in year changes in the policy document in question, or when the policy document was approved by Full Council.

## 15. Summary explanatory note and diagram : Budget and Policy Framework

- 15.1. The Budget and Policy Framework is the framework which sets out arrangements for the adoption and implementation of the Council's Budget, policies, plans and strategies.
- 15.2. These are decisions where both Full Council and the Leader and Cabinet have a role in the decision making:
  - 15.2.1. The Leader and Cabinet develop and recommend the Budget and Policy Framework decision to Full Council for approval; and
  - 15.2.2. The full Council makes the final decision.
- 15.3. The specific financial and policy decisions that are reserved for Council are set out in regulations and in Parts 3 and 5 of the Constitution.
- 15.4. Once decisions are agreed, the Leader and Cabinet has responsibility for implementing the framework.
- 15.5. The rules provide for the process to be followed if the Council disagrees with any of the Leader and Cabinet's recommendations. A summary of the budget process is set out as an example:



## PART 4F

# OFFICER EMPLOYMENT PROCEDURE RULES

## **F. Officer Employment Procedure Rules**

### **1. General**

- 1.1. Officers within the Council are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the Council or individuals.
- 1.2. Generally, (except for certain Senior Officer appointments) the function of appointment and dismissal of, and taking disciplinary action against, an Officer of the Council must be discharged on behalf of the Council by the Head of the Paid Service or by an Officer nominated by them.
- 1.3. The Head of HR & OD will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

### **2. Recruitment and Appointment of Officers**

- 2.1. Subject to the provisions of these Procedures, the recruitment, employment, appointment, designation and engagement of all Officers will be conducted in accordance with the law and the Council's policies and procedures.

#### **Declarations of Relationships**

- 2.2. Any candidate for any designation or appointment with the Council who knows that they are related to a Councillor or Officer of the Council shall, when making application, disclose, in writing, that relationship to the Head of Human Resources and Organisational Design ("Director of HR & OD").
- 2.3. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.4. Every Councillor and Officer of the Council shall disclose to the Head of HR & OD any relationship known to them to exist between them and any person they know is a candidate for a designation or appointment by the Council.
- 2.5. Persons shall be deemed to be related to a candidate or Officer if they are a spouse, partner (i.e. member of a couple living together), parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.
- 2.6. In the case of a dispute under Rule 2.5 of this Part 4E about the status of a relationship in relation to an appointment, the Head of HR & OD will rule and such ruling will be applied.



## **Seeking Support for Appointment**

- 2.7. Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or Officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal.
- 2.8. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.

## **3. Responsibility for Human Resources Matters**

Subject to any matters reserved to the Council, the Cabinet is responsible for the development of Corporate Human Resources policies; determining and monitoring such policies; and the operational implementation of those policies, including the development of practices and procedures to support them.

## **4. Appointment of Head of the Paid Service, Chief Officers (Tier 2 Appointments), Monitoring Officer and Section 151 Officer**

- 4.1. The appointment to the above posts will be made by Full Council following a process arranged by the Head of HR & OD as set out below.
- 4.2. Where the Council proposes to appoint to one of the posts above, the Head of HR & OD will oversee the arrangements for filling the vacancy in consultation with the Leader of the Council. The Head of HR & OD will make arrangements which will include convening a member panel which will not be a formal Committee of the Council, but will contain relevant members and include at least one opposition member and at least one member of the Cabinet.
- 4.3. The Head of HR & OD shall, in consultation with the member panel they have convened:
  - 4.3.1. draw up a statement specifying the duties of the Officer post and any qualifications or guidelines to be sought in the person to be appointed;
  - 4.3.2. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - 4.3.3. make arrangements for a copy of the statement mentioned above to be sent to any person on request; and
  - 4.3.4. where a post has been advertised as required above, the member panel, Head of HR & OD and any other person the Head of HR & OD considers appropriate to support the process will select from the applications a short list of qualified candidates and will then interview those included in the shortlist.

- 4.4. Following the interview of candidates, the Panel will come to a view as to the most suitable person for the position.
- 4.5. The Panel must advise the Head of HR & OD of:
  - 4.5.1. the name of the person in question; and
  - 4.5.2. any other particulars which the Panel consider are relevant to the appointment.
- 4.6. Within two clear working days of interview the Head of HR & OD will notify each member of the Cabinet of:
  - 4.6.1. the name of the person and any other information they consider relevant to the appointment; and
  - 4.6.2. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Head of HR & OD; such period shall not exceed five clear working days.
- 4.7. A recommendation to Full Council must wait until:
  - 4.7.1. the Leader has, within the period of the notice under paragraph 4.6 above, notified the Head of HR & OD that neither they nor any member of the Cabinet has any objection to the making of the offer; or
  - 4.7.2. the period of the notice under paragraph 4.6 above has expired without objection; or
  - 4.7.3. the Head of HR & OD is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Monitoring Officer should be sought.
- 4.8. Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the Head of HR & OD will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.
- 4.9. Where following the interviews the Head of HR & OD in consultation with the Panel are of the view that there is no suitable candidate, they will re-advertise the post.
- 4.10. Where Full Council does not approve the recommendation, it shall indicate how it wishes to proceed.

## **5. Dismissal of Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

- 5.1. The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended) ("the Regulations") will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer.
- 5.2. In regard in particular to the dismissal of the Head of Paid Service, Monitoring Officer or Section 151 Officer the Council by way of this paragraph formally adopts the statutory procedure as set out in Regulation 6 and Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

## **6. Appointments/dismissal of other Officers**

Where any appointments are made to positions other than those referred to in paragraph 5 above, or where such persons are dismissed, these shall be the responsibility of the Head of Paid Service, or another Officer to whom they have delegated that responsibility.

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