

Part 4

Rules of Procedure

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COUNCIL PROCEDURE RULES

(Standing Orders)

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STANDING ORDER NO. 1
Annual Business Meeting

The Annual Business Meeting of the Council will be held each year before the Annual Council Meeting, at a place determined by the Chief Executive after consulting the Mayor and notified in the summons.

The Annual Business Meeting will:

- 1 elect a person to preside if the Mayor is not present¹;
- 2 approve the minutes of the last meeting;
- 3 receive any declarations of interest from members
- 4 receive any announcements from the Mayor and/or Chief Executive;
- 5 at the Annual Council meeting following the local government elections, elect the Leader for a period of four years or until the Leader's term of office as a Councillor ends.
- 6 make recommendations to the Annual Council Meeting as to
 - a review of the representation of different political groups on committees and any other bodies to which the Council has power to make appointments and to which section 15 of the Local Government and Housing Act 1989 applies², and
 - the allocation of seats to political groups in accordance with the political balance rules³, and
 - the appointment of the Overview and Scrutiny Committees, a Standards and Audit Committee, and such other committees⁴ and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution); and
 - appointments of members to committees and any other bodies, except where appointment to any such other body has been delegated by the Council or is exercisable only by the Cabinet.⁵
 - The appointment, directly by the full council ⁶, from among the voting members, and subject to the rules in the Constitution about the make-up of certain committees, of a Chair and Vice-Chair of the following committees or sub-committees:
 - Planning Committee
 - Planning Sub-Committee
 - Appeals and Regulatory Committee

- Licensing Committee
 - Employment and General Committee
 - The Overview and Scrutiny Committees
 - Any other committee or sub-committee which the council may have decided to appoint.
- 7 agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree. See Part 3.
 - 8 approve a programme of ordinary meetings of the Council for the year; and
 - 9 consider any business set out in the notice convening the meeting.

STANDING ORDER NO. 2 **Annual Council Meeting**

The Annual Meeting of the Council will be held each year at a place determined by the Chief Executive after consulting the Mayor and notified in the summons, at 5.00 p.m. on the second Wednesday in May. In an election year the meeting will be held on the second Wednesday after the day of the elections⁷.

The annual meeting will:

- 1 elect a person to preside if the Mayor is not present⁸;
- 2 elect the Mayor⁹ and Deputy¹⁰ Mayor;¹¹
- 3 receive any announcements from the Mayor and/or Chief Executive;
- 4 confirm the recommendations of the Annual Business Meeting.

STANDING ORDER NO. 3 **Selection of Councillors for Committees,** **Sub-Committees and Joint Committees**¹²

At the Annual Business Meeting and whenever otherwise necessary the Council meeting will:

- Decide which committees to appoint for the Municipal Year
- Decide the size and terms of reference for those committees
- Decide the allocation of seats to political groups¹³ in accordance with the political balance rules
- Receive nominations of Councillors to serve on each committee and joint committee exercising non-executive functions
- Appoint Members to those committees and joint committees exercising non-executive functions, except where those appointments have been delegated.¹⁴

STANDING ORDER NO. 4
Ordinary Council Meetings

- 4.1 Ordinary meetings of the Council will be held at places determined by the Chief Executive after consulting the Mayor and notified in the summons, on dates determined by the Council.
- 4.2 The order of business shall be:
- (a) in the absence of the Mayor and Deputy Mayor, to appoint a Chair for the meeting;
 - (b) any matter required by statute to be considered before any other matter;
 - (c) to consider the Minutes of the last Council Meeting;
 - (d) to receive the Mayor's communications;
 - (e) to receive any declarations of interest from Members (though a member may declare an interest at any time during the meeting if an interest arises)
 - (f) to receive questions from, and provide answers to, the public in relation to matters which, in the opinion of the person presiding at the meeting, either relate to the powers and duties of the Council or affect the Borough in some way (see Standing Order 12 - Questions from the public)
 - (g) to receive and/ or debate petitions under Standing Order 13
 - (h) under Standing Order No. 19 to receive questions without written notice from members and answers from the Leader on any matter relating to the powers and duties of the council other than those which may be asked under (q) below
 - (i) to report vacancies on the Council;
 - (j) to deal with any business which may be outstanding from the last meeting;
 - (k) to deal with matters specifically required by statute to be dealt with (other than in (b) above);
 - (l) to consider the District Auditor's Annual Audit Letter;
 - (m) to consider proposals from the Cabinet in relation to the Council's budget and policy framework;

- (n) to consider reports and recommendations from the Cabinet (other than the proposals mentioned at (m) above).
- (o) to consider reports and recommendations from the Overview and Scrutiny Committees and other council committees;
- (p) to receive and note the Minutes of Council Committees' decisions taken under delegated powers and the records of decisions taken by the Cabinet and by Cabinet Members;
- (q) under Standing Order 15-17 to receive questions without written notice from members and answers from Cabinet Members and Scrutiny Committee Chairs on any Scrutiny Committee minute or record of Decision of Cabinet or Cabinet Member referred to in the Minute Book for the meeting at which questions may be asked;.
- (r) under Standing Order No. 19 to receive questions with written notice from members and answers from the Mayor, Leader, Cabinet Members or Chairs on matters other than those covered under (q) above;
- (s) to receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (t) to consider notices of motion in the order received. Motions submitted by the Mayor shall have priority;
- (u) to consider any other business specified in the summons to the meeting;

4.3 There shall be a time limit of 3 hours on every meeting after which any outstanding business shall be adjourned to the next meeting. This Standing Order may be waived, for urgent business outstanding, under Standing Order 33 by resolution passed by the council having been moved and seconded. The motion will be put without discussion.

4.4 **Effect of Prejudicial Interests**

Where a member has declared a prejudicial interest in any item included in a minute, record of decision or report, the council meeting may consider that minute, record of decision or report separately. The member must withdraw from the council meeting for that item.

This rule applies whether a member's prejudicial interest was recorded in a minute or record of decision, or whether the interest has arisen between the date of the minute or record of decision and the date of the full council meeting. This rule also applies to prejudicial interests recorded in the minutes of the previous council meeting under (c) above.

4.5 Amending the Order of Business

With the exception of (a), (b) and (c) above, the order of business may be changed:-

- (a) at the discretion of the Mayor, or
- (b) by resolution passed by the council having been moved and seconded.

The motion will be put without discussion.

STANDING ORDER NO. 5 **Extraordinary Council Meetings**

The following may request the Chief Executive to convene Extraordinary Council Meetings:

- The Council (by passing a resolution).
- The Mayor.
- The Monitoring Officer.
- Five Members of the Council if they have presented and signed a request to the Mayor and s/he has refused to call a meeting or has failed to do so within seven days of receiving the request.

The meeting will be held at a place determined by the Chief Executive after consulting the Mayor and notified in the summons.

STANDING ORDER NO. 6 **Summons to Council Meetings**

The Chief Executive will give notice to the public of the time and place of Council Meetings in accordance with the Local Government Act 1972 and the Access to Information Procedure Rules.

At least five¹⁵ clear days¹⁶ before each meeting the Chief Executive will send a summons signed by him by post to each Member of the Council or leave it at their usual place of residence.

The summons will give the date, time and place of each meeting and will include:

- any statutory matters to be dealt with;
- any matters which the Chief Executive considers should be dealt with;
- any motions submitted by Members.

STANDING ORDER NO. 7

Chair of Meeting

A member chosen to chair a meeting of the Council in the absence of the Mayor and Deputy Mayor shall have their powers in conducting the meeting.

A member of the Cabinet may not be chosen to Chair the full Council meeting.¹⁷

In these Standing Orders the Chair of the Council Meeting is described as the Mayor.

STANDING ORDER NO. 8 **Quorum**

The quorum for a Council Meeting is one quarter of the elected members of the Council.

If during a Council Meeting the number of members present falls below the quorum the meeting shall be adjourned.

At the time of the adjournment the Mayor has the authority to fix a date and time for the meeting to be reconvened.

If the Mayor does not do this, any matters not dealt with will be referred to the next ordinary meeting.

STANDING ORDER NO. 9 **Right of Public to Attend Council Meetings**

The statutory right of the public to attend Council Meetings shall be subject to:

- reasonable accommodation being available;
- the powers to remove exclude or adjourn in Standing Order 26

STANDING ORDER NO. 10 **Exclusion of Press and Public**

Members of the public and the press may only be excluded from attendance at Council Meetings either in accordance with the Access to Information Rules in Part 4 or under Standing Order No. 9.

STANDING ORDER NO. 11 **Minutes of Previous Meeting(s) of the Council**

11.1 At ordinary Council Meetings, the Minutes of the previous Meeting shall, if agreed, be signed by the Mayor as a correct record.

The Minutes will not be open to discussion other than on their accuracy.

The signed copies should be kept in a book of loose-leaf pages

11.2 It is not necessary, at an Extraordinary Meeting of the Council, for the Minutes of the previous meeting to be presented. They can be presented at the next ordinary meeting¹⁸. *[This rule cannot be suspended]*

STANDING ORDER NO. 12 **Questions from the Public**

With the exception of the Annual and Extraordinary Council Meetings, a period of thirty minutes shall be allocated at each Council Meeting for members of the public to question appropriate members of the Council.

All questions should be received in writing by the Chief Executive at least five working days before the date of the Council Meeting at which they are to be asked, and as soon as practicable after receipt will be entered in a register which shall be open to public inspection.

The Question and the name of the person submitting it shall be included in the Summons.

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

No person or organisation may submit more than one question at any council meeting.

Questions shall either relate to the powers and duties of the Council or affect the Borough in some way.

The Mayor will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the Chief Executive will read the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

After the appropriate Member of the Council has answered the written question put to them, the member of the public who has asked the question shall be allowed to ask one supplementary question of the Member or other appropriate Member. A supplementary question must arise directly out of the original question or the reply. There shall be no discussion on the question by council members.

STANDING ORDER NO. 13 **Petitions to the Council**

Petitions below 1,000 Signatures

A petition presented to the full Council Meeting containing less than 1,000 signatures shall be received without discussion. Receipt of the petition will be recorded in the minutes.

Petitions shall be presented in the order in which notice of them is received by the Council.

Petitions above 1,000 Signatures

The petition organiser, or their representative, shall give notice to Democratic Services of their intention to present the petition at least ten working days before the date of the Council Meeting at which they wish to present it.

Petitions may be presented at any meeting of the Council and be debated, except at the Annual and Extraordinary Council Meetings. Only one petition shall be considered at any meeting. Petitions shall be presented in the order in which notice of them is received by the Council.

The title of the Petition and the name of the person submitting it shall be included in the Summons.

The presentation of a petition by the petition organiser or representative shall be limited to not more than ten minutes.

There will then be an opportunity for questions to be put to the petitioner by Members and/or Officers, followed by a debate.

Each Member will be allowed to speak once during the debate.

The relevant Cabinet Member or Committee Chair will be allowed a right of reply at the close of the debate.

The petition organiser or representative will then be allowed not more than ten minutes to sum up the petition, or clarify any additional points raised during the debate.

The Council will decide which course of action to take in response to the petition and vote on this at the meeting.

STANDING ORDER NO. 14 **Questions to Executive Leader**

With the exception of the Annual and Extraordinary Council Meetings, a period of thirty minutes shall be allocated at each Council Meeting for members of the Council to ask questions without notice of the Executive Leader of the Council. If the Executive Leader is unable to reply they may provide a written answer within 3 working days.

No member may submit more than one question at any council meeting. The Mayor shall determine the order in which questions are taken.

Questions shall either relate to the powers and duties of the Council or affect the Borough in some way. Questions which relate to matters for which questions may be

asked under Standing Order No's 15-18 or for which a written question has been received under Standing Order No. 19 shall be excluded.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 15
Questions to Cabinet Members on delegated matters

Members of the Council may without written notice, ask questions of Cabinet Members on any delegated decision relating to their portfolio which appears in the Minute Book at the meeting at which questions are asked. If the Cabinet Member is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular record of decision and the Cabinet Member shall reply to that question before taking any further questions.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 16
Consideration of Cabinet minutes and Cabinet reports requiring approval

Cabinet reports and recommendations shall be presented to the Council by the appropriate Cabinet Member and/or Chief Executive or other appropriate Officer.

When the recommendations have been moved and seconded, members may ask questions about them. If the Cabinet Member is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute or report and the Cabinet Member shall reply to that question before taking any further questions.

After the replies to questions, discussion will be invited.

Members who have asked questions shall not be precluded from discussion.

The mover of the recommendations will then reply or may request another member to reply.

Following the replies to discussion the recommendations in the report or minutes will be put to the vote.

STANDING ORDER NO. 17
Questions to Overview and Scrutiny Committee chairs on delegated matters

Members of the Council may without written notice, ask questions of Overview and Scrutiny Committee chairs on any delegated decision relating to their committee which appear in the Minute Book at the meeting at which questions are asked. If the

Overview and Scrutiny Committee chair is unable to reply they may ask another member or an officer to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute and the Overview and Scrutiny Committee chair shall reply to that question before taking any further questions.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 18

Consideration of Overview and Scrutiny Committee minutes and Overview and Scrutiny Committee reports requiring approval

Overview and Scrutiny Committee reports and recommendations shall be presented to the Council by the appropriate Overview and Scrutiny Committee chair and/or Chief Executive or other appropriate Officer.

When the recommendations have been moved and seconded, members may ask questions about them. If the Overview and Scrutiny Committee chair is unable to reply they may ask another member to reply or provide a written answer within 3 working days.

A Member may ask not more than one question on any particular minute or report and the Overview and Scrutiny Committee chair shall reply to that question before taking any further questions

After the replies to questions, discussion will be invited.

Members who have asked questions shall not be precluded from discussion.

The mover of the recommendations will then reply or may request another member to reply.

Following the replies to discussion the recommendations in the report or minutes will be put to the vote

STANDING ORDER NO. 19

Questions other than those raised under Standing Order No's 14-18

If at least three working days before the date of the Council meeting notice in writing is given to the Chief Executive,

- (a) members may ask the Mayor or a Cabinet Member any question which is relevant to the Council's powers or duties or which affects the Borough in some way, including questions to Cabinet Members on portfolio matters not referred to in the Minute Book for the meeting at which the question is to be asked.

- (b) members may ask a Committee Chair questions relating to decisions of their Committee which appear in the Minute Book at the meeting at which questions are asked.

No discussion will be allowed following questions under this Standing Order.

STANDING ORDER NO. 20 **Answers to Questions**

Answers to questions asked under Standing Orders 14-19 can take any of the following forms:

- Direct oral answers
- If the information sought is contained in a particular publication, a reference to the publication can be given
- A written answer which should be sent to all members

The person of whom a question is asked has the option of not giving an answer.

STANDING ORDER NO. 21 **Notices of Motion**

All notices of motion should be received in writing by the Chief Executive not later than midday on the 8th working day before the date of the Council Meeting at which they are to be considered.

They should be signed by the member(s) submitting them.

On receipt, they will be date stamped and entered into a book which will be open to inspection by all members of the Council and by the public.

Every motion under this Standing Order must be formally proposed and seconded. If a motion in the summons is not moved and seconded then unless the Council resolves to postpone it, it shall be treated as being withdrawn.

Motions whose subjects fall within the powers and duties of the Cabinet or a Council Committee shall, after being moved and seconded, be automatically referred to the Cabinet or the relevant Council Committee without discussion.

However, the Mayor has the authority to allow them to be dealt with at the Council Meeting if s/he has obtained the consent of the Leader or the Chair of the relevant Committee.

All motions must either relate to the Council's powers and duties or, in some way, affect the Borough.

Any motion which in the opinion of the Chief Executive is illegal, irregular or improper shall be referred to the Mayor for a decision on whether to accept it.

If a submitted motion is similar to one which has been rejected by the Council less than two meetings earlier it will not be included in the summons.

No more than one Notice of Motion shall be considered at any council meeting. Motions shall be considered in the order in which they were received.

There shall be a time limit of 60 minutes for debate of Notices of Motion. If after this time the motion has not been dealt with by way of a vote or other procedural motion it shall immediately be put to the vote without further debate or amendment.

STANDING ORDER NO. 22
Motions and Amendments which may be moved without Written Notice

The following motions and amendments may be moved without written notice:-

- (a) Dealing with routine business.
- (b) To move the approval or otherwise of recommendations of reports to Council
- (c) The position of an item on the agenda.
- (d) The adjournment (apart from the election of Chair) of consideration of any particular business.
- (e) To suspend or waive Standing Orders.
- (f) The referral of an item to the Cabinet or a Committee.
- (g) Permission to withdraw a motion or an amendment.
- (h) To amend a motion on a proposal or a recommendation of a report or minute.
- (i) The exclusion of the public in accordance with Section 100(A)(2) (Confidential Information) or Section 100(A)(4) (Exempt Information) of the Local Government Act, 1972.
- (j) That a member guilty of disorderly conduct under Standing Order No. 25 should not be allowed to speak any further or should leave the meeting.
- (k) That the meeting should proceed to the next business.
- (l) That the question be now voted upon.
- (m) That the debate be adjourned.
- (n) That the meeting be adjourned.

STANDING ORDER NO. 23
Rules of Debate at Council Meetings

23.1 Motions and Amendments

A motion or amendment shall not be discussed until it has been moved, the mover has explained the purpose of the motion/ amendment and it has been seconded.

Motions once moved and seconded can only be withdrawn with the Council's permission under Standing Order No. 22(g) .

23.2 Secunder's Speech

If a member seconding a motion or an amendment wishes to speak on it later in the debate s/he must indicate this at the time s/he seconds it.

23.3 Order of Speaking

The order of speaking shall be determined by the Mayor.

When a member speaks, s/he will stand (if possible) and will address the Mayor.

Whilst a member is speaking, no-one else shall speak unless raising a point of order or giving a personal explanation.

23.4 Length and Content of Speeches

With the exception of the mover of the annual budget motion and the Leaders of the Minority Groups responding to the annual budget motion, no-one shall speak for more than five minutes on any motion unless the Council allows him/her to do so under Standing Order No 22(e).

Members shall confine the content of their speeches to the subject under discussion.

23.5 Member Speaking Again

A member who has already spoken in a debate cannot speak again except to:

- (a) exercise a right of reply
- (b) make a point of order
- (c) give a personal explanation.
- (d) speak on an amendment
- (e) move a further amendment

23.6 Amendments to Motions

- (a) An amendment must be relevant to the motion and must be a proposal:
 - to refer a motion elsewhere

- to add, replace or leave out words

Amendments to add, replace or leave out words must not negate the motion.

- (b) Unless notice of the amendment has been given, the Mayor may require it to be given to him/her in writing and signed by the mover before it is debated.
- (c) Only one amendment may be moved and debated at any one time. No further amendment may be moved until that amendment has been disposed of.
- (d) After an amendment has been carried the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (e) If an amendment is carried the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) If an amendment is not carried, any further amendments will be made to the original motion.
- (g) If no further amendments are moved the Council will then vote on the original motion or the amended motion, as the case may be.
- (h) The mover of an amendment must state at the beginning of his/her speech that s/he proposes to put forward an amendment.

23.7 Alteration of Motion

- (a) A member may alter a motion of which he has given notice with the consent of the meeting (The meeting's consent will be signified without discussion).

A Member may alter a Motion which he has moved without notice with the consent of both the meeting and seconder. The meeting's consent will be signified without discussion.

- (b) Only alterations which could be made as an amendment may be made.

23.7 (i) Right of Reply- Proposer of Original Motion only

At the end of the debate on the original motion, immediately before it is put to the vote the mover of the original motion has a right of reply

23.7 (ii) Right of Reply- Upon amendment to Motion

The mover of every substantive motion has a right of reply.

If an amendment is moved, the mover of the original Motion shall also have a right of reply at the close of the debate on the amendment, and may not otherwise speak on the amendment.

The mover of the amendment has no right of reply to the debate on his amendment.

When an amendment has been carried and a debate ensues on a further amendment, the right of reply to that further amendment shall be exercisable by the mover of the successful amendment, and not by the mover of the original Motion which it has replaced.

At the end of a debate on an amendment to a motion and immediately before it is put to the vote the mover of the substantive motion (either the original motion or the amended motion) may exercise a right of reply.

This right of reply is confined to answering arguments or objections which have arisen during the debate.

23.8 Motions which may be moved during debate

While a motion is being debated no other motion may be moved except the following procedural motions:

- (a) to amend a motion;
- (b) to withdraw a motion
- (c) to adjourn the meeting;
- (d) to adjourn the debate or meeting;
- (e) to proceed to the next business;
- (f) that the question be now voted upon;
- (g) under Standing Order No. 26 that a member be not allowed to speak any further;
- (h) under Standing Order No. 26 that a member should leave the meeting;
- (i) to exclude the public in accordance with the Access to Information Rules

23.9 Closure Motions

- (a) If, during a debate, it is moved and seconded that the Council should proceed to the next business, and the Mayor thinks the

item has been sufficiently discussed s/he will give the mover of the original motion the right to reply and will then take a vote on the proposal to proceed to the next business.

- (b) If, during a debate, it is moved and seconded that the question be now voted upon, and the Mayor thinks the item has been sufficiently discussed s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion the right to reply before putting the motion to the vote..
- (c) If a motion "to adjourn the debate" or "to adjourn the meeting" is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

23.10 Points of Order

Members can, at any time, raise points of order.

Points of order relate only to alleged breaches of Standing Orders or statutory provisions and members raising them must specify the Standing Order or statutory provision and why they consider they have been broken.

23.11 Personal Explanations

Members can, with the Mayor's permission, give personal explanations on matters referred to by other members.

A personal explanation should be confined to a relevant part of a member's previous speech which may have been misunderstood.

23.12 Mayor's Ruling

The Mayor's ruling on points of order or personal explanations is final.

23.13 Members' Speaking

Members will (if possible) stand whilst speaking. They will address other members and officials by their respective titles.

No-one should stand or speak whilst the Mayor is speaking.

23.14 Officers Speaking

Where any of these Standing Orders refers to an Cabinet Member or Committee Chair answering a question or entering into discussion, the Cabinet Member or Committee Chair may invite any officer present at the

meeting to speak also, on any relevant factual matter unless that officer is prevented from speaking because of a conflict of interest.

STANDING ORDER NO. 24
Voting

1 Method of Voting

Unless the law or this Constitution otherwise provides, matters put to the vote will be decided by a simple majority of those Members present in the room at the time when the question is put.

Votes will normally be taken by shows of hands, subject to paragraph 2 below.

2 Record of voting as it takes place (Council meetings only)

Recorded voting during the vote can take place at full Council meetings only, either:

- at the discretion of the Mayor or
- if requested by the mover or seconder of a motion and agreed by not less than six other members

In this case, the Chief Executive will, in turn, call out the name of each member present and s/he will declare his/her vote.

3 Minuted voting after a show of hands (Council meetings and committee meetings)

[This rule cannot be suspended]

At full Council meetings or at council committee or subcommittee meetings, where any member requests it immediately **after** the vote is taken, his or her vote will be so recorded in the minutes to show whether he or she voted for or against the motion or abstained from voting¹⁹

4 Equality of Votes

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

Where, at a meeting, there are equal numbers of votes for and against and the Mayor declines to use his/her casting vote, the motion or amendment will be declared lost and cannot be moved again at the meeting.

STANDING ORDER NO. 25
Disorderly Conduct at Council Meetings - Members²⁰

If the Mayor considers that a member is misbehaving by either disregarding his/her ruling, acting improperly/ offensively or by wilfully obstructing the meeting, s/he or any other member can move that the member should not be allowed to speak further.

If this motion is seconded it shall be voted upon without discussion.

If the member referred to continues to misbehave, the Mayor can either:

- move that s/he should leave the meeting (this will be voted upon without seconding or discussion)²¹ or
- adjourn the meeting for whatever period s/he feels is appropriate

In the event of disturbance which the Mayor considers makes it impossible to carry on the meeting, s/he can adjourn the meeting for whatever period s/he feels is appropriate.

STANDING ORDER NO. 26
Disorderly Conduct at Council Meetings - The Public²²

Existing Disorder

The Mayor may call on any disorderly person or persons to behave properly - if they do not, the Mayor may direct their removal by such force as may be reasonably necessary for expulsion.²³

In the event of disturbance which the Mayor considers makes it impossible to carry on the meeting, s/he can adjourn the meeting for whatever period s/he feels is appropriate.

Anticipated Disorder

The Mayor or any other member can move that members of the public be excluded from attending a meeting in view of the likelihood they would disrupt proceedings.²⁴

STANDING ORDER NO. 27
Quorum and Procedures for Committees of the Council
(and their Sub-committees)

Subject to any other rule of law or provision of this Constitution or any decision of the Council, the quorum for Committees of the Council is three members and the quorum for Sub-Committees of those Committees is two members²⁵.

Unless the full Council has appointed the Chair and Vice Chair of a committee or sub-committee under Standing Order No. 1, Committees and sub-committees will

elect their own Chairs and Vice-Chairs, subject to any rule in the constitution as to voting for and qualification for the office of Chair or Vice-Chair.

If a vacancy occurs in the office of chair or vice chair of any committee or sub-committee during the municipal year, the voting members present at the committee or sub-committee meeting will elect a Chair or Vice-Chair for the remainder of the municipal year, subject to any rule in the constitution as to voting for and qualification for the office of chair or vice-chair.

Voting will be taken by shows of hands.

The chair has a casting vote.

Members can, if they wish, have recorded in the Minutes the way in which they voted on a particular issue. (Mandatory Standing Order under the Local Authorities (Standing Orders) Regulations 1993.)²⁶

The Chief Executive, any Executive Director, Service Director and the Monitoring Officer are each authorised to convene meetings of Council Committees subcommittees certain other bodies and the Cabinet

STANDING ORDER NO. 28 **Minutes and Records of Decisions**

- The Minutes of Council Committees, sub-committees, joint committees and bodies, and certain working groups (including Joint Staff Consultative Groups and certain Liaison Groups) and
- the Records of Decisions of the Cabinet, Cabinet sub-committees, individual Cabinet Members, and Officers (making key decisions only)

shall be printed and sent to each member of the Council with the summons for the Council Meeting at which they are to be presented.

STANDING ORDER NO. 29 **Attendance Register**

Members attending meetings of the Council or its Committees or subcommittees should sign the attendance sheets provided.

STANDING ORDER NO. 30 **Employees of the Council**

If at any Council Meeting the personnel details of a particular employee or any matter relating to the employee's conduct should arise, the matter shall not be further considered until the Council has considered whether or not the public should be excluded under the Local Government (Access to Information) Act, 1985 and the Human Rights Act 1998.

STANDING ORDER NO. 31
Inspection of Land and Property

Members of the Council should not, unless specifically authorised, issue any orders on behalf of the Council. Subject to any other part of this Constitution, in their individual capacities they have no right to enter on to land or property which the Council might have the right to enter on to.

STANDING ORDER NO. 32
Amendment of Council Procedure Rules

Any motion submitted to the Council (other than one contained in Minutes) which proposes amendments of Standing Orders shall be referred to the next ordinary Council Meeting and will require a notice of motion in accordance with Standing Order No. 21.

STANDING ORDER NO. 33
Suspension of Standing Orders

All of these **Standing Orders** except SO 11.2 and SO 24(3) and may be suspended by motion on notice or without notice. Suspension can only be for the duration of the meeting.

11.2 - No agreement to sign minutes of previous meeting if extraordinary.

24(3) - Right to require and individual vote to be recorded

The suspension or waiving of any Standing Order in these Council Procedure Rules at a Council Meeting will require a majority vote. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

If less than half the members of the Council are present, no motion to suspend or waive Standing Orders will be discussed.²⁷

STANDING ORDER NO. 34
Members' Receipt of Standing Orders

Members will receive copies of Standing Orders as soon as possible after their election to office.

STANDING ORDER NO. 35
Interpretation of Standing Orders

The Mayor's ruling on the interpretation of Standing Orders and on the conduct of the meeting cannot be challenged at Council Meetings.²⁸

Such Mayor's ruling will have regard to the purposes of this Constitution contained in Article 1

STANDING ORDER NO. 36
Members' Codes of Conduct and Protocols

Members (including co-opted members) shall abide by the Chesterfield Borough Council Code of Conduct for Members, the Code of Conduct on Planning Matters, and the Protocol on Member/Officer Relations at Part 5 of this Constitution and any current general advice on conduct matters from the Local Ombudsmen.

In these Procedure Rules where a Cabinet Member or Committee Chair is prevented from speaking because of an interest under the code of conduct, the Leader, Deputy Leader or another Cabinet Member may speak in place of that Cabinet Member, and the Vice Chair or another member of the committee may speak in place of that Committee Chair.

ACCESS TO INFORMATION PROCEDURE RULES

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1. **SCOPE**

Rules 3 to 21 apply to all meetings of the Council, the Overview and Scrutiny Committees (but not informal Scrutiny Review Panels which they may set up), Committees, the Standards and Audit Committee and Regulatory Committees (except for the Licensing Committee), and public meetings of the Cabinet (together called "meetings"). Rule 22 applies to individual decisions of Cabinet Members and officers.

Unless expressly stated otherwise, "Meeting" does not mean individual Cabinet Member meetings with officers where Cabinet Members do not make individual decisions at those meetings.²⁹

2. **ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. **RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. **NOTICES OF MEETING**

4.1 Subject to these Rules, the Council will give at least five clear days notice of any meeting by posting details of the meeting:

- at the Town Hall, Rose Hill, Chesterfield (the designated office) and
- on the Council's website

or where the meeting is convened at shorter notice, at the time the meeting is convened.

4.2 For full Council meetings, notice of a meeting shorter than 3 clear days may not be given³⁰

4.3 For **Public** Cabinet meetings, (where a key decision is to be made or considered, or where the Cabinet has decided to hold the meeting in public under section 22 of the Local Government Act 2000), notice of a meeting shorter than 5 clear days may be given only when a key issue which was not on the Forward Plan is to be considered under the urgency or special urgency provisions of Regulation 10 or 11.

4.4 For Council Committee/subcommittee meetings, notice of a meeting shorter than 5 clear days may be given.

4.5 For **Private** Cabinet meetings (where no key decision is to be made or considered and the Cabinet has decided to hold the meeting in private under Section 22 of the Local Government Act 2000), no advance public notice of the meeting need be given.

5. **ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

Where required by these Rules, the Council will make copies of the agenda and reports open to the public available for inspection at the designated office³¹ and on its website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors. However, the public have no right to

inspect the agenda, item or report until a copy is available to members of the relevant decision making body.

The Head of Regulatory Law and Monitoring Officer may exclude from public inspection or the website the whole, or any part, of a report which relates to matters during which he considers the meeting is likely to be a private meeting.

For Council Committee meetings items may be added to the agenda and reports considered by the meeting **at the time of the committee meeting** where, by reason of special circumstances, which shall be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.³²

In the case of a full council meeting, except in the case of business required by statute to be transacted at the annual meeting of a principal council and except for other business brought before that meeting as a matter of urgency in accordance with the council's standing orders, no business shall be transacted at a meeting of the council other than that specified in the summons relating thereto³³

6. **SUPPLY OF COPIES**

The Council will supply copies of:

- any agenda and reports which are open to public inspection;³⁴
- any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of postage, copying or other necessary charge.

7. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

- (a) The minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet³⁵, excluding any part of the minutes or records of decisions when the meeting was not open to the public or which disclose exempt or confidential information.
- (b) A summary of any proceedings not open to the public where the minutes or records of decisions open to inspection would not provide a reasonably fair and coherent record.³⁶

- (c) The agenda for the meeting (except agenda for meetings of the Cabinet decided to be held in private under section 22 of the Local Government Act 2000).
- (d) Reports relating to items when the meeting was open to the public, and reports of Cabinet meetings decided to be held in private under section 22 of the 2000 act³⁷, subject to the Proper Officer's right not to disclose exempt or confidential information or the advice of a political assistant³⁸

8. BACKGROUND PAPERS³⁹

8.1 List Of Background Papers

The Proper Officer (in this context, the officer writing the report) will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but excluding published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political adviser.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF THE PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the designated office. A summary of public rights to attend meetings is at Schedule 3. As the Constitution must be available to the public, then these Rules also constitute the written summary.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

These rules are in addition to any lawful powers to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

10.1 **Confidential Information – Requirement to exclude public**

The public **must** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 **Exempt Information – Discretion to exclude public**

The public **may** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. However In many cases council bodies can conduct a hearings in private in the interests of the private life of the parties, and in the interests of justice, as stated in the qualification to Article 6 (see Article 13 of this Constitution – Decision Making).

10.3 **Meaning of Confidential Information**

“Confidential information” means information given to the Council by a Government Department on terms which forbid its public disclosure OR information which cannot be publicly disclosed by or under any enactment or Court Order.⁴⁰

10.4 **Meaning of Exempt Information**

“Exempt information” means information falling within the statutory categories (subject to any condition) described in Schedule 1 to these Rules.

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.5 **Executive Decisions**

Special rules apply to executive decisions. There is a statutory presumption that Cabinet and Cabinet Member meetings and decision making will be in **public**⁴¹. However, a meeting (or part of a meeting) or decision making will only be in **private** if there is a valid reason to exclude the public (see Exempt Information and Confidential Information above).

If an executive meeting is to be held in private the executive or individual cabinet members must resolve to exclude the public during

the discussion of the item because they have determined it is not in the public interest that the public be present in accordance with one of the categories of exemption (see Schedule 1 to these Rules).

While the executive meeting is open to the public, any person attending for the purpose of reporting proceedings will be given reasonable facilities for taking their report. Guidelines are set out at Schedule 3 to these Rules.

10.6 Procedures Prior to Private Executive Meetings

At least 28 clear days before a private meeting the Council must make available at its offices and on its website a notice of its intention to hold the meeting in private and give reasons for this.

A further notice shall be made available and published on the website at least five clear days before the meeting. This will state the reasons for intending to hold the meeting in private, any representations received and the Council's response to those representations.

If it is impracticable to comply with these rules because of the date by which the meeting must be held, the meeting may only be held in private where there is agreement from:

- The Chair of either of the Overview and Scrutiny Committees or, if not available,
- The Mayor

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement a notice must be made available at the Council's offices and published on the Council's website setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

Exempt Information: If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with (by reference to the descriptions in Schedule 12A to the 1972 Act (see Schedule 1)) the description of exempt information by virtue of which the public are likely to be excluded.

Confidential Information: In relation to "confidential information" as defined by the 1972 act and by the 2000 regulations, the Proper Officer will determine⁴² whether any report contains or is likely to result in the disclosure of such information and may mark any such report "*The public are excluded*"

from the meeting during the consideration of the following item in accordance with Section 100A (1) and (2) of the Local Government Act 1972 (or for Cabinet meetings) regulations 11 and 21 of the Local Authorities (Executive Arrangements)(Access to information) (England) Regulations 2000)”

12. **APPLICATION OF RULES TO THE CABINET**

Rules 13 to 24 apply to the Cabinet and its Committees (if any).

If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 to 11 subject to Rule 15 (general exception) and Rule 16 (special urgency).

If the Cabinet or its Committees meet to discuss a matter which is either:

- a key decision on the Forward Plan OR
- which is the subject of a Rule 15 (general exception) notice, AND
- the decision on the matter is likely to be taken within 28 days of that meeting AND
- an officer (other than a political assistant) is present at the discussion,

then it must hold the meeting in public and also comply with the Rules as to advance publication of public documents subject to Rule 15 (general exception) and Rule 16 (special urgency).

A key decision is as defined in Article 13.3 of Part 2 of this Constitution.⁴³

This requirement for the Cabinet to comply with Rules 1 to 11 does not include meetings, whose sole purpose is for officers to brief members.⁴⁴

13. **PROCEDURE FOR TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meeting).

14. THE FORWARD PLAN

14.1 Period of Forward Plan

Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding Plan.

14.2 Publicity for Key Decisions

At least 28 days clear days before a key decision is made the Forward Plan referring to it must be made available for inspection by the public at the Town Hall and on the Council's website.

14.3 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan.

The Forward Plan must state:

- (a) that a key decision is to be made
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name and a list of members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision taker for consideration in relation to the matter
- (f) the address from which, subject to any restriction or prohibition on disclosure, copies of, or extracts from, any document listed is available
- (g) that other relevant documents may be submitted to the decision maker
- (h) the procedure for requesting details of these documents (if any) as they become available

Exempt information, confidential information (as defined above) and the advice of any political assistant shall not be included in a Forward

Plan, but the Plan must still contain particulars of the matter without disclosing such information or advice.⁴⁵

15. GENERAL EXCEPTION

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), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Proper Officer has informed the relevant Chair of the Overview and Scrutiny Committee, or in their absence the Vice-Chair, or if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available for inspection by the public at the offices of the Council and published on the Council's website; and
- (d) at least five clear days have elapsed since the Proper Officer complied with (c).

As soon as reasonably practicable after complying with (a) to (d) the Proper Officer shall make available at the Town Hall, and publish on the Council's website, a notice setting out the reasons why it is impracticable to comply with 14.2 and 14.3 above.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) is impracticable, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee the taking of the decision is urgent and cannot be reasonably deferred.

If there is no such Chair, or if the Chair is unable to act, then the agreement of the Mayor of the Council, or in their absence the Deputy Mayor, will suffice.

As soon as reasonably practicable after obtaining such agreement the Proper Officer shall make available at the Town Hall, and publish on the Council's website, a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

17. REPORT TO COUNCIL

17.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a Scrutiny Chair, or the Mayor or Deputy Mayor of the Council under Rule 16;

the Forum may require the Cabinet to submit a report to the Council within such reasonable time as the Forum specifies⁴⁶. The power to require a report rests with the Forum, but is also delegated to the Proper Officer⁴⁷, who shall require such a report on behalf of the Forum when so requested by its Chair or any five of its members. Alternatively, the requirement may be raised by resolution passed at a meeting of an Overview and Scrutiny Committee.

This is a statutory power of the Overview and Scrutiny Committees, which is independent of other powers such as the general right to call-in executive decisions.

17.2 Cabinet's Report to Council

When an Overview and Scrutiny Committee has required a report, the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Board or Panel, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the executive is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Annual Reports on Special Urgency Decisions⁴⁸

The Leader will submit a report to the meeting of the Council in June each year on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding twelve months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **RECORD OF CABINET DECISIONS**

After any executive decision of the Cabinet, any of its Committees, **whether held in public or private**, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable.

The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, a record of any declared conflict of interest and any dispensation granted by the Chief Executive (after he has consulted with the Chair of Standards and Audit Committee)⁴⁹.

19. **CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

Subject to these Rules the Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.⁵⁰

20. **NOTICE OF PRIVATE MEETING OF THE CABINET⁵¹**

Members of the Cabinet or its Committees will be entitled to receive three clear days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21. **ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

Cabinet Members

- (a) All members of the Cabinet will be given notice of all private meetings of a Committee of the Cabinet whether or not they are members of that Committee and will be entitled to attend and speak at that meeting.

Overview and Scrutiny Committee Members

- (a) Notice of private meetings of the Cabinet and its committees will be provided to the Chairs of the Overview and Scrutiny Committees, at the same time as notice is provided to members of the Cabinet.⁵²
- (b) Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet, and its committees, unless invited to do so by the person presiding at the Cabinet or Cabinet committee.⁵³

Officers

- (a) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its Committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.

- (b) A private Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.
- (c) The Chief Executive, Executive Director, Chief Finance Officer, Service Directors and the Monitoring Officer or their nominees, may attend meetings of the Cabinet or its committees to provide advice on relevant issues.

The provision of Rule 18 (recording and publicising decisions) will apply.

22. **DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS**

22.1 **Reports intended to be taken into account**

Where an individual member of the Cabinet or an officer receives a report which they intend to take into account in making any **key decision**, then they will not make the decision until at least five clear days after receipt of that report (subject to Regulations 10 and 11 (general exception and special urgency)) and subject to Regulation 20 of the Access to Information Regulations 2012 as to Exempt and Confidential Information.⁵⁴

22.2 **Provision of copies of reports to Assistant Cabinet Members (Key Decisions and Non-key Decisions)**

On the giving of any report to an individual Cabinet Member for that Cabinet Member to make a final decision on the matter, the person who prepared the report will give a copy of it to each member of that Cabinet Member as soon as reasonably practicable, whether or not that report is publicly available.

The report will also be given to any other Cabinet Member who has the function of consultee in his or her portfolio, and the report will also be given to each member of that consultee Cabinet Member's Support Group, subject to the Cabinet Procedure Rules.

22.3 **Record of Individual Decision by an Cabinet Member or Officer**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or an officer they will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected, a record of any declared conflict of interest and any dispensation granted by the Chief Executive (after he has consulted with the Chair of Standards and Audit Committee)⁵⁵.

In respect of officer decisions, the following decisions will be recorded, where not already published elsewhere:

- a) Decisions under a specific express authorisation;
- b) Decisions under a general authorisation to officers to take such decisions and, the effect of the decision is to –
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

An officer decision will be reported under part (iii) if it meets the financial thresholds as set out in the definition of a key decision:

- a decision to spend £50,000 or more from an approved budget,
- a decision to vire more than £10,000 from one budget to another,
- a decision which would result in a saving of £10,000 or more to any budget head,
- a decision to dispose or acquire any interest in land or buildings with a value of £50,000 or more,
- a decision to propose the closure of, or reduction by more than ten (10) percent in the level of service (for example in terms of funding, staffing or hours of operation) provided from any facility from which Council services are supplied.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

23. OVERVIEW AND SCRUTINY COMMITTEE MEMBERS - ACCESS TO DOCUMENTS

23.1 Rights to copies

Subject to paragraph 23.2 of this Rule, the a member of any Overview and Scrutiny Committee will be entitled to receive, as soon as reasonably practicable but no later than 10 clear days of making a request, copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (a) any business that has been transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any executive decision that has been taken by an individual member of the Cabinet.

- (c) any executive decision that has been made by an officer

23.2 **Limit on Rights**

A member of an Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

Where the executive decides that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of a document for any of the above reasons it must provide the relevant committee with written reasons for the decision.

24. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS - STATUTORY RIGHTS**

24.1 **Material relating to previous business – Executive Decisions**

Unless (a), (b) or (c) below applies all members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to:

- any business previously transacted at a private meeting⁵⁶ of the Cabinet or of its subcommittees, or
- any decision previously made by an individual member of the Cabinet, or
- any decision that has been made by an officer

within 24 hours of the conclusion of the meeting or the decision being made.

These statutory rights of access will still apply to any document which :

- (a) contains exempt information falling within paragraph 3 of the categories of exempt information listed at Schedule 1 to these Rules except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or

- (b) contains exempt information falling within paragraph 6 of the categories of exempt information listed at Schedule 1 to these Rules⁵⁷

but not if the document contains the advice of a political adviser

24.2 **Material relating to forthcoming business – Collective Cabinet Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any business to be transacted at a public meeting⁵⁸ unless paragraph 24.1 (a) (b) or (c) above applies. Any such document is to be available for inspection at least five clear days before the meeting. If the meeting is convened, or an item is added to an agenda, at shorter notice the document must be available for inspection from that time.

24.3 **Material relating to forthcoming business – Non-executive Decisions**

Any document which is in the possession or under the control of the council in relation to non-executive functions and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council shall be open to inspection by any member of the council unless paragraph 24.1 (a) or (b) above applies.⁵⁹

25. **Nature of Rights - *Common Law Need to Know***

These rights of a member are additional to any other right they may have. In particular, all members have the common law “Right to Know” which has been explained in case law as set out below in relation to committees. It is possible (though not yet tested in the courts) that this common law right would apply to Cabinet (executive) information and meetings and to individual member decision making as well as to Council and Committee information and meetings:

“The Need to Know”

<i>R v City of Birmingham District Council ex parte O</i>	<i>A councillor is entitled by virtue of office to have access to all written material in the possession of the local authority if a “need to know” can be shown in order to perform duties as a councillor. In the case of a committee of which she was a member she would normally have good reason for access to all that committee’s written material. In the case of other committees a “need to know” had to be demonstrated, and the matter in the last resort was for the council to determine, subject to judicial review</i>
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	<i>It would seem that the rights of members to inspect override the duties of confidentiality owed to third parties by the council or its committees (but see Members' Code of Conduct as to Confidentiality).</i>
<i>R v Eden District Council ex parte Moffat</i>	<i>There must be a screening process to balance the rights of the councillor against the public interest</i>
<i>R v Hackney LBC ex parte Gamper</i>	<i>There was no logical distinction between access to documents and attendance at meetings Membership of the parent committee ought to have been conclusive in this case,</i>
<i>R. v. Sheffield City Council, ex p. Chadwick</i>	<i>The use of a special sub-committee composed entirely of members of the ruling Labour group for party political purposes could not justify the exclusion of a Liberal member of the parent committee from its meetings.</i>
<i>R. v. Clerk to Lancashire Police Committee, ex p. Hook</i>	<i>Unnecessary replication of "gossip and hearsay" which might lose the protection of qualified privilege in defamation proceedings if newly elected members to a committee were given access to the documents would be a good reason for the committee refusing access.</i>
<i>R v Hinckley and Bosworth BC ex parte Handford</i>	<i>Requests for information need to be reasonable and supported by evidence of the need to know</i>

The arrangements for "screening" requests for information under the "need to know" are that the requests will be initially determined by the Chief Executive or by a Executive Director (as appropriate according to the subject matter) or in cases of doubt by the Monitoring Officer. If a member is dissatisfied with the decision of the Monitoring Officer, the matter is referred to the relevant council committee or to the Cabinet as appropriate.

26. **Members Rights to Information and Data Protection**

The following guidance from the Information Commissioner applies to the disclosure of PERSONAL DATA to elected members, under any statutory or common law right mentioned above:

Before making any disclosures of personal data to elected members local authorities must ensure that they have **listed them as recipients of personal data in their data protection notifications**

Disclosures to the Elected Member as a member of the Council

Disclosures of personal data may be made to an elected member if access to and use of that data is necessary for him or her to carry out official duties. **The member is not required to have his or her own data protection**

notification and is, effectively, in the same position as an employee.

Among the considerations that the Council should take are the following:

- The member should only be given access to as much information as is necessary to carry out his duties. For instance, a member of the Housing Committee may attend a meeting to decide whether or not to seek the eviction of a council tenant. The Council may provide him or her with all the relevant information about the tenant and the circumstances giving rise to the possible eviction. It would not be justified, however, in providing him with general access to the Housing Department system
- In making a disclosure of **personal data** to the elected member, the Council should **specify the purposes for which that information may be used or disclosed. This may either be done on a case by case basis or through the development of more general procedures and guidelines.**
- Where the member is able to take a copy of the information away from Council premises whether in paper or electronic form or where he or she has remote access to the information, the Council should specify the steps to be taken to **ensure the security of the information.** For instance, there may be rules regarding the security of personal data processed on laptop computers.

Disclosures of personal data to elected members acting on behalf of local taxpayers

The Data Protection Act provides that personal data may always be disclosed at the request of or with the consent of a data subject. **A Council does not generally have to obtain the consent of the data subject to the disclosure of their data to a Councillor providing that the Councillor represents the ward in which the data subject lives (in which case there may be a reasonable presumption that the member is acting on behalf of the data subject).** In other cases, or where the data in question are of a particularly sensitive kind, it may be prudent to seek the signed consent of the data subject. In any event, in providing information to the Councillor, the Council should make clear that it is provided for the limited purpose of assisting the data subject and must not be used for any other purpose. This may either be done on each occasion that information is disclosed to a member or more generally by requiring adherence to a code of practice. **It would certainly be good practice to make a note of any requests by Councillors for information.**

Disclosures of personal data to elected members for political purposes

Councils should not normally disclose information to elected members for political purposes without the consent of the individuals concerned. Two exceptions exist:

- ☐ there may be sets of data which the Council is required to make public (for instance lists of some types of license holder) in which case the Act does not prevent disclosure.
- Information may also be released if it does not identify any living individuals (for instance Council Tax band information or statistical information). However, there would be a breach of the Act if information was released in an apparently anonymised form which could be related to the individuals concerned, for instance by comparing property data with the electoral roll.

SCHEDULE 1
Exempt Information (Rules 10 and 24)

Category	Condition (s)
1. Information relating to any individual.	is exempt information if and so long, as in all the circumstances of the case, the public interest ⁶⁰ in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs ⁶¹ of any particular person (including the authority holding that information).	<p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under - (a) the Companies Act 1985;(b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or(f) the Charities Act 1993.</p> <p>if not prevented from being exempt by virtue of the above paragraph, information under para.3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter ⁶² arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Information in respect of which a claim to legal professional privilege	is exempt information if and so long, as in all the circumstances of the case, the

Category	Condition (s)
could be maintained in legal proceedings	public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<p>6. Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

NOTE: Information falling within any of paragraphs 1 to 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

SCHEDULE 2– DELEGATION OF PROCEDURAL DECISIONS

For the meaning of "Proper Officer" in these Procedure Rules, see Appendix 4 of Part Three of this Constitution (List of Proper Officer Appointments). The persons or bodies mentioned in Columns 3 and 5 of the table below are to discharge the procedural functions listed in columns 2 and 4 and where shown those persons or bodies delegate those functions to the persons shown by virtue of these executive arrangements or Section 101 of the LGA 1972:

PROCEDURAL DECISIONS				
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985	
1 Type of Procedure	2 Function	3 Carried out by	4 Function	5 Carried out by
General classifying functions	<i>Defining in detail Categories of Key Decisions (Reg 8(2) and guidance)</i>	<i>The Cabinet but guidance says the full council should agree limits for spending limits etc. (7.17) which should be set out in this constitution)</i>	N/A	N/A
	<i>Decision as to what are background papers</i>	<i>Proper Officer</i>	<i>Decision as to what are background papers (s.100D (5))</i>	<i>Proper Officer</i>
General decisions about exempt etc. info. background papers and copying documents	<i>Nothing in the Regs. shall authorise or require the council to disclose to the public any document if, it is likely that confidential or exempt info. or political advice would be disclosed</i>	<i>Opinion of Proper Officer (meetings) or opinion of member or officer making the decision (individuals) (r. 20 (2) and (3))</i>	<i>Nothing in s. 100D requires the council to disclose to the public any document if, it is likely that confidential or exempt info. would be disclosed.</i>	<i>The local authority – delegated to the Proper Officer</i>
	<i>Determination of any fee to be charged for inspection of any background papers required by r. 6 to be available for public inspection (r.21 (1)(c))</i>	<i>The Cabinet – delegated to the Proper Officer</i>	<i>Determination of any fee to be charged for inspection of any background papers required by 100D(1) to be available for public inspection (s.100H(1))</i>	<i>The local authority – delegated to the Proper Officer</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
		<i>Determination of postage, copying or other necessary charges for copying any document required to be available for public inspection (r.21 (2))</i>	<i>The Cabinet – delegated to the Proper Officer</i>	<i>Determination of any reasonable fee for copying any document required to be available for public inspection (s.100H(2))</i>	<i>The local authority – delegated to the Proper Officer</i>
		<i>To decide whether any document should be excepted from the general right of access of all council members, if certain classes of exempt info. etc. would be disclosed. (r. 16)</i>	<i>The Proper Officer (r.16(5) and (7))</i>	<i>To decide whether any document should be excepted from the general right of access of all council members, if certain classes of exempt info. would be disclosed. (s.100F(2))</i>	<i>The Proper Officer</i>
MEETINGS	<i>Procedures BEFORE the decision</i>	<i>A public meeting of the executive can be convened at less than 5 days notice (r. 6). A private meeting of the executive cannot (r.5), unless under r. 11 (key decisions not on the forward plan)</i>	<i>Not specified – delegated to the proper officer</i>	<i>To convene a meeting at less than 5 days notice (s. 100 (3) (b) (a))</i>	<i>Not specified – delegated to the proper officer</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
		<i>To decide whether a meeting should be held in public or private (for non-key decisions)</i>	<i>The Cabinet (r.2 – definition of “public meeting” and LGA 2000)</i>	<i>A meeting of a principal council (or committee or sub-committee (100E) shall be open to the public except to the extent that they are excluded because of confidential or exempt info. (S.100A (1))</i>	<i>N/A</i>
		<i>To make available to the public at the Town Hall and on the website, the agenda, public reports, and background papers (r.15) when they are made available to the members of the executive (r.7(1))</i>	<i>Delegated to the proper officer</i>	<i>To make available to the public, the agenda, public reports, and background papers at least 5 days before the meeting (100B) or where the meeting is convened at shorter notice from the time the meeting is convened (100B (2)(a))</i>	<i>Delegated to the proper officer</i>
		<i>To prepare a list of background papers for inclusion in public reports available under r. 7 (r 15(a))</i>	<i>The Proper Officer</i>	<i>To prepare a list of background papers for inclusion in public reports available under 100B (s.100D(1)(a)(b))</i>	<i>The Proper Officer</i>
		<i>To exclude the whole or part of any report from reports available before a meeting of the executive, if in his opinion there is likely to be disclosure of exempt info. etc.(r. 7(2)).</i>	<i>The Proper Officer (r.7(2))</i>	<i>To exclude the whole or part of any report from reports available before a meeting of council or committee, if in his opinion there is likely to be disclosure of exempt info.(s.100B(2))</i>	<i>The Proper Officer</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
		<i>Supply of agenda, public reports etc. to the press or public on request before meetings (r. 7(7))</i>	<i>The Cabinet – delegated to the Proper Officer</i>	<i>Supply of agenda, public reports etc. to the press on request (s. 100B (7))</i>	<i>Not specified - delegated to the Proper Officer</i>
		<i>To decide whether any other document (including background papers (r 2 –def. of “document”) supplied to the meeting should also be sent to the press or member of the public (r. 7(7) c)</i>	<i>The Proper Officer</i>	<i>To decide whether any other document supplied to the meeting should also be sent to the press (s.100B(7)(c))</i>	<i>The Proper Officer</i>
		<i>To add a public item to the agenda for a public meeting less than 5 days before the meeting, and make the revised agenda (with any added reports/ background papers available to the public from the date added (r. 7(3)(b))</i>	<i>Not specified – delegated to the proper officer</i>	<i>To add a public item to the agenda less than 5 days before the meeting, and make the revised agenda and reports and background papers available to the public from the date added (s. 100B (1))</i>	<i>Not specified – delegated to the proper officer</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
	Procedures DURING the meeting	<i>Except during any part of a public meeting during which the public are excluded to make available for the members of the public present at the meeting a reasonable number of copies of the agenda and of the public reports (r. 7(6))</i>	<i>The Cabinet – delegated to the proper officer</i>	<i>Where a meeting (or part) is required to be open to the public to make available for the members of the public present at the meeting a reasonable number of copies of the agenda and of the public reports (s. 100B (6))</i>	<i>Not specified – delegated to the proper officer</i>
	Procedures DURING the meeting	<i>To pass a resolution excluding the public from a meeting where it is likely that if members of the public were present, confidential or exempt info. or political advice would be disclosed (r. 4(2))</i>	<i>The decision making body (Cabinet or committee of the Cabinet)</i>	<i>To pass a resolution excluding the public from a meeting where it is likely that if members of the public were present, confidential or exempt info. would be disclosed (s.100A(4))</i>	<i>The decision making body (Council or Council Committee)</i>
		<i>No equivalent provision for urgent items in relation to non key decisions. But see below (reg 11) for special urgency procedure for key decisions and reg 7(3)(b) above for adding public items at less than five days notice</i>	<i>N/A</i>	<i>To decide whether an item should be considered at the meeting as a matter of urgency, without prior notice to the public by reason of special circumstances, to be specified in the minutes.(s.100B (4)(b))</i>	<i>The chair of the meeting</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
	Procedures AFTER the meeting	<i>Produce written statement of each executive decision made at public or private meetings</i>	<i>Proper Officer OR the person presiding⁶³ delegated to the Proper Officer in the latter case</i>	N/A	N/A
		<i>Ensure public availability of statements of executive decisions and public reports (r.14) and background papers (r.15) at Town Hall and on website</i>	<i>The Proper Officer (r 14(1))</i>	<i>All agenda, public reports and public minutes, lists of public background papers and papers themselves to be available for inspection by the public, with a summary of minutes relating to exempt information s.100C (1) and 100D(2))</i>	<i>Not specified – delegated to the proper officer</i>
		<i>To prepare a list of background papers for inclusion in public reports available under r. 14 (r 15(a))⁶⁴</i>	<i>The Proper Officer</i>	<i>To prepare a list of background papers for inclusion in public reports available under (s 100D ((1) as amended by s. 97 LGA 2000)⁶⁵</i>	<i>The Proper Officer</i>
		<i>Supply press on request with statements of decisions and reports (r.5(2))</i>	<i>The Cabinet – delegated to the proper officer</i>	<i>Supply of agenda, public reports etc. to the press on request (s. 100B (7))</i>	<i>Not specified – delegated to the proper officer</i>
		<i>Retention of, records of executive decisions, reports and background papers for inspection for 6 and 4 years (r.22(5) and (6))</i>	<i>The Cabinet – delegated to proper officer</i>	<i>Retention of agenda, public reports minutes of public items, summaries of minutes of exempt etc. items and public background papers for 6 and 4 years (s.100C (1) and 100D(2))</i>	<i>Not specified –delegated to the proper officer</i>

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
		No provision equivalent to s. 100C (2) –But see Procedure Rule 7(b) above	Delegated to the Proper Officer	For exempt etc. items, to prepare a summary of proceedings without disclosing exempt information, where the minutes do not provide a reasonably fair and coherent record of the whole or part of the proceedings, (s. 100C (2))	The Proper Officer
ALL EXECUTIVE DECISIONS	Procedures BEFORE the decision	Make publicly available at Town Hall and on website any report and background papers to be considered by an individual member or officer intending to make an executive decision	The member or officer intending to make the decision must ensure that the Proper Officer does this.(r. 15)	N/A	N/A
		To ensure that such reports include a list of background papers and that copies of papers are available. ⁶⁶	Proper Officer (r 9(4))		
	Procedures AFTER	Produce written statement of each key executive decision made by an officer	The officer making the decision (r 13(4))	N/A	N/A

PROCEDURAL DECISIONS					
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985		
1 Type of Procedure		2 Function	3 Carried out by	4 Function	5 Carried out by
	the decision Procedures AFTER the decision	Produce written statement of each executive decision (key or non-key) made by each individual member	The individual member OR Proper Officer if instructed by that member. <u>Standing Instruction by each member for all decisions for the Proper Officer to produce this Statement</u>		
		Supply press on request with statements of decisions and reports (r.14(2))	The Cabinet – delegated to the proper officer		
		Ensure public availability of statements and public reports for ANY executive decision (made by an individual member or KEY DECISION made by an officer (r.14))	The Proper Officer (r 14(1))	N/A	N/A
		Retention of records of executive decisions, reports and background papers for 6 and 4 years (r.21(6) and (7))	The Cabinet – delegated to the proper officer		

PROCEDURAL DECISIONS				
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012			Access to Information Act 1985	
1 Type of Procedure	2 Function	3 Carried out by	4 Function	5 Carried out by
FORWARD PLAN AND KEY DECISIONS	<i>To publish general information⁶⁷ about key decisions (r.9(1))</i>	<i>The executive leader to instruct the proper officer to publish the Forward Plan</i>	N/A	N/A
	<i>Notice to Overview and Scrutiny Committee chair of Urgent Key decisions (to be made without being on the forward plan) and publication of notice (r. 10)</i>	<i>The Proper Officer</i>		
	<i>To seek consent of an Overview and Scrutiny Committee chair etc. for exemption from r.10 above in cases of special urgency (r.11)</i>	<i>The “decision maker” Delegated to the Proper Officer</i>		
	<i>To make annual reports to the council about each urgent key executive decision taken under r. 11 above.</i>	<i>The executive leader (r.19) delegated to the Proper Officer</i>		
DISPENSATIONS	<i>To grant dispensations in respect of any declared conflict of interest</i>	<i>The Head of Paid Service (delegated to The Chief Executive)</i>		

CHESTERFIELD BOROUGH COUNCIL

Guidelines for members of the public attending public meetings

On 6 August, 2014 the government introduced new regulations relating to Council meetings and citizen's access to information.

The full legislation is available on line at: [The Openness of Local Government Bodies Regulations 2014](#).

Previous legislation had afforded members of the public the same rights as accredited journalists to report on proceedings via online media, for example blogs, twitter, other social networking sites and hyperlocal news forums. The new regulations now allow members of the public to photograph, film or audio-record the proceedings of public council meetings.

All Chesterfield Borough Council meetings are open to the public and press to attend except where, for example, personal or confidential matters are being discussed. The majority of business however is transacted in public. Agendas and reports for all council and committee meetings are made available to the public five days in advance. Minutes and details of decisions are also published on our website once available.

Where decisions are likely to be taken in private this will be indicated on the agenda of the meeting. In addition, for decisions of Cabinet to be taken in private 28 days notice of those decisions will be given in the Forward Plan. Anyone wishing to make representations about why a decision should not be taken in private may do so by contacting Democratic Services at least 5 clear days before the meeting at which the decision is to be taken.

Responsibilities of the Council

- The Council will publish a notice of a meeting dealing with a key decision matter on the website 28 days before the meeting is held. This notice is called the Forward Plan. The document will explain the key decision to be made plus any related documents and how to access these documents.
- In the case of a 'special urgency decision' where 28 days notice cannot be given, the Council will publish a notice to explain the reasons why.
- The Council will justify the decision to hold any meeting or part of a meeting in private and allow the public to make representation against this decision.
- For members of the public attending a meeting for the purpose of reporting the proceedings, the Council will provide, as far as practicable, reasonable facilities.

Responsibilities of the Public

By attending a public meeting of the Cabinet or individual Cabinet Member, you are agreeing to these guidelines as a whole and in particular the stipulations listed below:

- You are welcome to attend a public meeting to report proceedings, either in 'realtime' or after conclusion of the meeting, on a blog, social networking site, news forum or other online media.
- You may use a laptop, tablet device, smartphone or any other device to film, photograph, take audio-recordings or make written transcript of proceedings during the meeting.
- You must not interrupt proceedings and digital gadgets must be set to 'silent' mode.
- Any person whose behaviour threatens to disrupt orderly conduct will be asked to leave.
- Be aware that libelous comments against the Council, individual Councillors or officers could result in legal action being taken against you.
- Personal attacks of any kind or offensive comments that target or disparage any ethnic, racial, age, religion, gender, sexual orientation or disability status could also result in legal action being taken against you.

The Council regards failing to comply with any of the guidelines above as a risk to the orderly conduct of a meeting. The Council therefore reserves the right to refuse entry, to any further Council meetings, to any person who breaches any of these requirements.

It is possible that you may be filmed or photographed by other members of the public when attending council meetings. This is outside of the Council's control.

BUDGET AND POLICY FRAMEWORK PROCEDURES

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1.1 Responsibilities for the budget and policy framework

Full Council sets the budget and policy framework, the Cabinet and officers must act within it. The budget is the Council's overall budget. The Policy Framework includes the policies and strategies listed at Article 4 (Part 2) of this constitution.

1.2 Developing the budget and policy framework

- (a) The amount of consultation on the budget and policy framework must reflect the importance of the proposal. Consultation must include consultation with an Overview and Scrutiny Committee.
- (b) Any reports to the Cabinet must say what consultation there has been and what the results were. The Cabinet will consider the response to the consultation and draw up firm proposals. The report to full Council will reflect any comments made during the consultation and the Cabinet's response.
- (c) The Cabinet's proposals will go to full Council as soon as possible.
- (d) Full Council can:
 - Accept the Cabinet's proposals
 - Refer the proposals back to the Cabinet, or
 - Change the proposals, for example by adopting proposals of its own.
- (e) If full Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If full Council changes the Cabinet's proposals, it will be an in principle decision only.
- (g) The leader will be given a copy of an in principle decision. The in principle decision will come into force unless the leader objects in writing to the Monitoring Officer within five clear working days, giving reasons.

- (h) If the leader objects to an in principle decision, full Council will meet again within 10 further working days. At the meeting, full Council can accept the Cabinet's proposals or change them.
- (i) Full Council's decision will come into force immediately.
- (j) When full Council sets the budget, it will also say how much the Cabinet and specified officers can move between cost centres (see 18.10(b)). Any other changes must be made by full Council.

1.3 Decisions outside the budget or policy framework

- (a) The Cabinet, and any officers carrying out executive responsibilities can only take decisions if they are
 - in line with the budget and policy framework
 - allowed under 1.4 (urgent decisions)
 - allowed under Financial Procedure Rules as summarised in Appendix 1 of the Rules.
 - necessary to obey the law or ministerial directions or government guidance.

Any other decisions must be recommended to full Council.

- (b) The Cabinet or officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the budget and policy framework.

1.4 Urgent decisions outside the budget or policy framework

- (a) The Cabinet or officers carrying out executive responsibilities can take a decision that is outside the budget or policy framework if:
 - It is urgent
 - It is not practicable to arrange a full Council meeting
 - The chair of the relevant Overview and Scrutiny Committee agrees that the decision is urgent. (If the chair of the relevant Overview and Scrutiny Committee is absent, the Mayor can agree that the decision is urgent. If the Mayor is absent, the Deputy Mayor can agree).
- (b) The record of the decision must say why it was not practicable to arrange a meeting of full Council. It must also say that the chair of the Overview and Scrutiny Committee (or Mayor or Deputy Mayor) agreed that the decision was urgent.

- (c) The decision taker must take a full report to the next ordinary Council meeting explaining the decision. This must say why the decision was taken, why it was urgent and why it was not practicable to arrange a meeting of full Council. If the next meeting is within seven days of the decision being taken the decision taker will report to the next meeting after that.

CABINET PROCEDURE RULES

1. How does the Cabinet operate?

1.1 Who may make decisions?

The arrangements for the discharge of Cabinet (executive) functions are set out in the Part 3 of this Constitution which describe the executive arrangements adopted by the Council.

1.2 Seven of the eight members of the Cabinet, including the Leader and Deputy Leader, are responsible for a particular area of work - their portfolio. These Cabinet members are called Cabinet Members. Each Cabinet Member's portfolio is shown in detail in Part 3. The content of each portfolio can be changed by the Cabinet (see Part 3).

1.3 Executive decisions may be made:

- Collectively, by the Cabinet at a **Cabinet meeting**; or
- Individually, by a Cabinet Member, after consultation with that Cabinet Member's **Assistant Cabinet Members**(see below); or
- Individually, by a Cabinet Member, after consulting another Cabinet Member and both Cabinet Members' Support Groups; or
- By an officer authorised by the Cabinet or by a Cabinet Member to make a decision (functions delegated to officers).

Part 3 shows which decisions are made in which of these ways.

2. Finality of Decisions

2.1 Most executive decisions, made in any of the ways listed above, will be **final** - they will need no further confirmation by the Council or any other person or body.

2.2 However some of those decisions will not be able to be implemented until the relevant Overview and Scrutiny Committee has had a chance to "call-in" those decisions (see Scrutiny Procedure Rules).

2.3 Also some major decisions made collectively by the Cabinet about strategies or the budget are recommendations for the full Council to approve them. These major decisions are shown in Part 3. Where the full Council disagrees with the Cabinet's recommendations, there are procedures for settling the disagreement (see Budget and Policy Framework Procedure Rules in this Part 4).

3. Procedures for Cabinet Meetings⁶⁸

3.1 The Cabinet and the Executive Leader and Deputy Leader

- 3.1.1. Cabinet meetings will be run in a way much like ordinary committee meetings, subject to the rules in this Constitution. The Executive Leader will Chair them and the Deputy Leader will be the Vice-Chair of the Cabinet meeting. In the absence of both, another Cabinet Member will be elected by the Cabinet to preside.
- 3.1.2 Any function of the Leader under any Part of this Constitution may be carried out by the Deputy Leader (where legally allowed and unless otherwise indicated) when the Leader is temporarily absent or unavailable, or when the Leader is under a disability (by reason of the Code of Conduct or otherwise).
- 3.1.3 The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.
- 3.1.4 The Cabinet need not be politically balanced.

3.2 Quorum

The quorum for a meeting of the Cabinet, or Cabinet subcommittee, shall be **3 members of the Cabinet**.

If during a meeting the number of members present falls below the quorum, the meeting shall be adjourned. At the time of the adjournment the person presiding has the authority to fix a date and time for the meeting to be reconvened. If the person presiding does not do this, any matters not dealt with will be referred to the next meeting.

3.3 Public or Private Meetings of the Cabinet?

Apart from collectively taken key decisions which must be taken in public (subject to exempt and confidential items and the advice of political assistants), the Cabinet will decide whether its meetings or any of them or any part of them will be open to the public.⁶⁹

3.4 Who may attend Cabinet Meetings?

These details are set out in the Access to Information Rules in Part 4 of this Constitution and the Scrutiny Procedure Rules. The Cabinet may invite any member or person to attend any meeting or part of any meeting.

The Head of Paid Service, Chief Finance Officer and Monitoring Officer or their representatives shall be entitled to attend and advise at any Cabinet meeting.

3.5 Consultation

All reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny bodies, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

4. Decisions Made by a Cabinet Member Individually

Part 3 shows which decisions may be taken in this way. These decisions are made in private, but in all cases there will be a public record of them (see Access to Information Procedure Rules).

4.1 Passing Decision Making to the Cabinet

In the case of any function which is shown in Part 3 as delegated for individual decision by a Cabinet Member, that Cabinet Member may direct the Chief Executive, Executive Director or appropriate Service Director that a decision on a report shall be made collectively by the Cabinet instead of by the Cabinet Member individually. The Democratic Services Manager shall then arrange for the matter to be considered by the Cabinet at the next convenient Cabinet meeting.

An Cabinet Member may so direct at any time after receiving a report, whether or not that Cabinet Member has consulted his or her Assistant Cabinet Members and whether or not that Cabinet Member has consulted any other Cabinet Member under a requirement of the scheme of delegations in Part 3.

4.2 Cabinet Member Meetings

4.2.1 . There will be regular Cabinet Member Meetings held in private.

4.2.2 . Officers will present reports to Cabinet Members at these meetings, and (subject to call-in where applicable), the Cabinet Member will make a final decision on the item(s) in the report.

4.2.3 . No final decision may be made by any Cabinet Member individually without appropriate advice from officers and a written (or in urgent circumstances an oral) report.

4.2.4 The Head of Paid Service, Chief Finance Officer and Monitoring Officer or their representatives shall be entitled to attend and advise at any Cabinet Member meeting.

5. Support Groups

- 5.1 For each Cabinet Member, there may be two non Cabinet members of the Council forming that Cabinet Member's Support Group.
- 5.2 Before making any decision individually, each Cabinet Member will consult his or her Support Group, who will have received relevant reports under the Access to Information Procedure Rules.
- 5.3 The Cabinet Member alone is responsible for his or her final decision.
- 5.4 The Cabinet Member's decision is not invalidated if for any reason any assistant cabinet member does not make any comments or does not have the opportunity to do so or does not attend a Cabinet Member meeting.
- 5.5 These Rules for consulting Support Groups apply only to the specified functions set out in Part 3 of this Constitution. There is no requirement for any Executive Member to consult his or her Assistant Cabinet Members before discharging any other function in this Constitution (for example, the Leader's functions under the Employment Procedure Rules and under the Budget and Policy Framework Rules).

6. Cabinet Members' Recommendations to the Cabinet

- 6.1 At Cabinet Member meetings, the Cabinet Member may also consider reports relating to his or her portfolio, and which are for decision by the Cabinet collectively rather than for his or her own individual decision.
- 6.2 The Cabinet Member may be briefed by officers on these items, and may write comments on the report for consideration by the Cabinet. The briefing and comments are not part of the formal decision on the item, which is a matter for the Cabinet.

7. Transfer of Cabinet Member Responsibilities

- 7.1 Where a Cabinet Member is prevented from making an individual decision or recommendation to the Cabinet by reason of absence or unavailability, or is prevented from doing so by reason of a disclosable pecuniary interest under the Code of Conduct, the Leader may:
 - Carry out that Cabinet Member's function him or her self, or
 - Delegate that function, along with any other appropriate functions, to another Cabinet Member for a temporary specified period of up to six months; or
 - Refer the matter to the next convenient Cabinet meeting.

- 7.2 Where the Leader is absent or unavailable or is prevented from doing these things by reason of a disclosable pecuniary interest under the Code of conduct, the Deputy Leader may either:
- Carry out that Cabinet Member's function him or her self, or
 - Refer the matter to the next convenient Cabinet meeting⁷⁰
- 7.3 And where the Deputy Leader is absent or unavailable or is prevented from doing these things by reason of a disclosable pecuniary interest under the Code of Conduct, the matter shall be referred to the next convenient Cabinet meeting.
- 7.4 Neither the Leader nor the Deputy Leader need consult their respective Support Groups before transferring decision making in these ways.

8. Individual Decisions and Recommendations to Cabinet made by a Cabinet Member after consultation with another Cabinet Member

- 8.1 Certain Cabinet Member decisions identified in Part 3 are the responsibility of a Cabinet Member subject to a requirement to consult another Cabinet Member.
- 8.2 In these cases, whether the responsibility is for making an individual decision or for making a recommendation to the Cabinet, the consultee Cabinet Member will receive relevant reports and be invited to attend the relevant Cabinet Member meeting.
- 8.3 The Cabinet Member will take into account any oral or written comments of the consultee Cabinet Member made before or at the Cabinet Member meeting. In the case of recommendations to the Cabinet, the consultee Cabinet Member is entitled to write comments on the Cabinet report.
- 8.4 The primary Cabinet Member alone is responsible for his or her final decision or recommendation.
- 8.5 The primary Cabinet Member's decision is not invalidated if for any reason the consultee Cabinet Member does not make any comments or does not have the opportunity to do so or does not attend a Cabinet Member meeting.
- 8.6 The consultee Cabinet Member's Assistant Cabinet Members will also be invited to the Cabinet Member meeting and have the same rights as listed at paragraphs 5, 6 and 7 above in relation to the decision or recommendation.
- 8.7 Where a consultee Cabinet Member is prevented from being consulted by reason of absence or unavailability, or is prevented from being consulted by reason of a disclosable pecuniary interest under the Code

of conduct, the primary Cabinet Member may (but is not required to) either:

- request the Leader or Deputy Leader to exercise their powers at paragraph 8 above in order to transfer the consultee Cabinet Member's responsibilities, or
- refer the matter to the next convenient Cabinet meeting

8.8 The primary Cabinet Member need not consult his or her Support Group, or the consultee Cabinet Member's Assistant Cabinet Members before transferring the consultative function in either of these ways

9. Decisions delegated to officers by the Cabinet or by a Cabinet Member

9.1 Part 3 shows which decisions may be taken in this way. These decisions are made in private, but where officers make key decisions there must be a public record of them, giving certain information including the reason for the decision (see Access to Information Procedure Rules).

9.2 For non-key decisions made by officers, there are procedures for these to be reported to cabinet meetings (see Part 3). The Freedom of Information Act, when in force, will give public access to records relating to some of these decisions.

9.3 There is no requirement for an officer exercising delegated powers to consult any Assistant Cabinet Member, whether for key or for non-key decisions.

9.4 Where an officer is required under Part 3 to consult a Cabinet Member, there is no requirement for that officer or that Cabinet Member to consult his or her Assistant Cabinet Members before responding to the consultation.

9.5 In the case of any function which is shown in Part 3 as delegated to an officer, that officer may require the appropriate Cabinet Member to exercise that function instead of the officer. In that event there is no requirement for that Cabinet Member to consult his or her Support Group.

9.6 Where a conflict of interest or other disability would prevent any officer from properly exercising any delegated function, the exercise of that function shall be delegated the Leader to another suitable officer or the function or to another appropriate Cabinet Member or passed to Cabinet.

9.7 Officers should regard themselves as having a conflict of interest or being subject to a disability where any of the following are likely:

- a breach of the employees' code of conduct, or
- a breach of any rule of law or
- a breach of this Constitution (including Codes & Protocols at Part 5)

Officers should also not exercise any delegated power where they could reasonably be considered to have a "disclosable pecuniary interest" under the members Code of Conduct if they were members.

10. Declarations of Interest under the Members' Code of Conduct

The whole of the Council's Code of Conduct for members at Part 5 of this Constitution applies to the Cabinet and its members as well as to non-Cabinet committees and councillors, and Cabinet Members must declare disclosable pecuniary interests, take no part in the item and withdraw.

11. Individual Cabinet Members

11.1 Except where there is a dispensation (which will be noted on the record of decision or on the Cabinet report), no Cabinet Member shall make an individual decision or recommendation to the Cabinet or act as consultee for either function if that Cabinet Member has a disclosable pecuniary interest under the Code of Conduct in the matter to be decided or recommended. In that event responsibility for the decision or recommendation shall be and responsibility for the consultation shall be transferred under paragraph 8 above.

12. Matters not within Portfolios

- 12.1 In any case where any matter does not fall clearly within any Cabinet Member's portfolio, the Leader may refer that matter to the next convenient cabinet meeting or make an individual decision on that matter him or her self, without in either case needing to consult his or her Support Group.
- 12.2 In any case where any matter concerns more than one Cabinet Member's portfolio, the relevant Cabinet Member shall decide or refer to the Cabinet (as the case may be) that matter after consultation with the other Cabinet Member(s), and in the event of disagreement between Cabinet Members, the Leader will decide the matter or refer it to the Cabinet, without having to consult his or her Support Group.

13. Re-allocation of Cabinet Functions

13.1 Section 15 (4) of the Local Government Act 2000 says that where the discharge of a function has not been allocated in this Scheme by the Council (in approving these executive arrangements), the Leader may individually:

- Discharge that function him or her self, or
- Delegate the discharge of that function to the Cabinet collectively, or to a Cabinet Member individually, or to a sub-committee of the Cabinet or to an officer

13.2 These executive arrangements allow the Leader individually to change the responsibility for any function from collective Cabinet responsibility to individual Cabinet Member responsibility and vice versa.

13.3 These executive arrangements allow the Leader to

- Revoke or amend any existing Officer delegation within a Cabinet Member's portfolio
- Delegate any individual Cabinet Member Delegations to an Officer

Subject to the following arrangements for reporting such changes to full council:

13.4 At the next convenient meeting of the Council following the exercise by the Leader of his or her power to re-allocate the exercise of executive functions the Leader will instruct the Chief Executive to present to Council a written record of the nature and effect of such re-allocations for inclusion in the Council's scheme of delegation at Part 3 of this Constitution.

SCRUTINY PROCEDURE RULES

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OVERVIEW AND SCRUTINY PROCEDURE RULES

1. What will be the Number and Arrangements for Overview and Scrutiny Committees?

The Council will appoint the Overview and Scrutiny Committees set out in Article 6 of Part 2 and will appoint to them as it considers appropriate from time to time.

2. Terms of Reference

The terms of reference of the Overview and Scrutiny Committees are set out in paragraph 6 in Part 2 of the Constitution.

3. Definitions

The term “Proper Officer” for the purposes of these Rules shall mean the Head of Paid Service or the Monitoring Officer.

4. Who may sit on Overview and Scrutiny Committees?

All Councillors, except Members of the Cabinet, may be Members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

5. Co-optees

Each Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

6. Meetings of the Overview and Scrutiny Committees

The Council shall determine a timetable of meetings of Overview and Scrutiny Committees and there shall be at least six ordinary meetings of each Overview and Scrutiny Committee in each year. All meetings shall be held at the Town Hall, or such other place as may be determined by the Council.

7. Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution, namely not less than one quarter of the total membership of the Committee.

8. Work Programme

- 8.1 The Overview and Scrutiny Committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of Members on that Committee who are not Members of the largest political group on the Council.
- 8.2 Any Member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Paid Service that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Head of Paid Service will ensure that it is included on the next available agenda.
- 8.3 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall normally consider the report of the Overview and Scrutiny Committee within one month of receiving it.

9. Policy Review and Development

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

10. Reports from Overview and Scrutiny Committees

- 10.1 Once it has formed recommendations on proposals for development, an Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 10.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 10.3 The Council or Cabinet shall consider the report of an Overview and Scrutiny Committee at the earliest practicable opportunity.

11. Rights of Overview and Scrutiny Committee Members to Documents

- 11.1 In addition to their rights as Councillors, Members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 11.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

12. Members and Officers giving Account

- 12.1 Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:-

(i) any particular decision or series of decisions;

(ii) the extent to which the actions taken implement Council policy;

and it is the duty of those persons to attend if so required.

- 12.2 Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Monitoring Officer. The Monitoring Officer shall inform the Member or officer in writing giving at least five working days' notice of the meeting at which they are required to attend. 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 Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that document.

- 12.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or officer, arrange an alternative date for attendance.

13. Attendance by Others

An Overview and Scrutiny Committee may invite people, other than those people referred to in paragraph 12 above, to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

14. Call-in Procedure

- 14.1 Agenda and reports for Cabinet Meetings, other than meetings which are held in private, will be sent to all Members of the Council.
- 14.2 The report will include a classification of the decision as urgent (where necessary) and the Cabinet shall, in the record of their decisions, confirm that the decision shall be treated as urgent (paragraph 14.15 refers). Otherwise reports will be deemed not to be urgent. A decision shall not be classified within a report as urgent unless the author of the report is satisfied that it would not be in the best interests of the Council to defer the decision for a further cycle to enable the right of call-in to be exercised. In determining what would not be in the best interests of the Council, regard should be had to the consequences of so deferring the decision-making process, including any legal or financial consequences arising as a result of the delay.
- 14.3 A summary of the decisions of the Cabinet will be placed on the internet/intranet by 12.00 noon on the day following the Cabinet Meeting and will be notified by email or by fax to Overview and Scrutiny Committee Chairs.

A summary of the decisions taken by individual Members of Cabinet exercising delegated powers will be placed on the internet/intranet by 12.00 noon on the day following the decision being taken and will be notified by email or by fax to all the Members of the relevant Overview and Scrutiny Committee.

Such decisions will be subject to the same rules as to call-in as apply to decisions taken by the Cabinet as a whole and the remainder of these rules shall be interpreted accordingly.

- 14.4 Members will be responsible for “tracking” a decision of the Cabinet by contacting officers or the relevant Portfolio holder.
- 14.5 Any Member of the Council shall be entitled to call for a decision of the Cabinet to be suspended by giving notice to the Monitoring Officer either by telephone, fax, email or in writing not later than 5.00 p.m. on the day following the Cabinet Meeting.
- 14.6 Any decision so suspended shall not be capable of implementation for a period of five days following the day of the Cabinet Meeting.
- 14.7 A request for call-in may be made in respect of any decision so suspended by not less than one quarter of the total membership of the Overview and Scrutiny Committee by notice, in writing, by fax or by email delivered to the Monitoring Officer not later than 5.00 p.m. on the day being five days following the day of the Cabinet Meeting. In the case of email, this must be verified by the Monitoring Officer.
- 14.8 For the purposes of paragraphs 14.6 and 14.7 only, the calculation of five days shall include weekends and bank holidays.
- 14.9 If a request for call-in is not received in respect of a decision which has been suspended within the five day period and in accordance with the requirements set out in paragraph 14.7 above, the Cabinet shall implement the decision immediately following the expiry of the said period.
- 14.10 In the event of a request for call-in being made in respect of a suspended decision, a special meeting of the Overview and Scrutiny Committee shall be held within ten working days of the request for call-in being received.
- 14.11 Delegated decisions taken by Chief Officers in accordance with the Scheme of Delegation, whether or not they constitute urgent decisions, shall **not** be capable of call-in.
- 14.12 An Overview and Scrutiny Committee, in considering whether to call-in a decision, may:-
 - (i) determine that the decision should not be called in, in which event the decision of the Cabinet will take effect;
 - (ii) refer the matter back to Cabinet for further consideration;
 - (iii) refer the matter to Council for debate.

- 14.13 The call-in procedure should only be used in exceptional circumstances and normally matters should only be referred to the Council by an Overview and Scrutiny Committee where they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- 14.14 If a matter is referred by an Overview and Scrutiny Committee to Council, Council may:-
- (i) take no action, in which event the decision of the Cabinet will take effect;
 - (ii) refer the matter back to Cabinet for further consideration.
- 14.15 The call-in procedure cannot be exercised in respect of urgent decisions. What constitutes an urgent decision shall be determined by the Cabinet by a majority vote of those present and voting when the decision is taken and the fact that the decision is deemed to be urgent shall be recorded in the minute of the decision.
- 14.16 The call-in procedure cannot be exercised on more than one occasion in respect of the same decision. For the avoidance of doubt, this rule does not apply where, following the exercise of call-in, the Cabinet alter or amend their decision from that on which the call-in was exercised.
- 14.17 If a decision is referred by an Overview and Scrutiny Committee to Cabinet for further consideration under Rule 14.12(ii), it shall be referred to the next available Cabinet Meeting provided that the meeting is at least five working days after the Overview and Scrutiny Committee meeting at which the resolution to refer the decision to Cabinet is taken or the Chair of the Cabinet is willing to take the matter as an urgent item.
- 14.18 If a decision is referred by an Overview and Scrutiny Committee to Council it shall be referred to the next available Council Meeting for debate under Rule 14.12(iii) provided that meeting is at least five working days after the Overview and Scrutiny Committee meeting at which the resolution to refer the decision to Council is taken or the Chair of the Council is willing to take the matter as an urgent item.

15. The Party Whip

- 15.1 For the purposes of this rule the term "Party Whip" shall be defined as follows:-

"Any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group

in respect of that Councillor should they speak or vote in any particular manner”.

- 15.2 When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a Party Whip, the Member must declare the existence of the Whip and the nature of it before the commencement of the Committee’s deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

16. Procedure at Overview and Scrutiny Committee Meetings

- 16.1 Overview and Scrutiny Committees shall consider the following business:-

- (i) minutes of the last meeting;
- (ii) declarations of interest and as to the exercise of the Party Whip (which may be made by a representative on behalf of each Group);
- (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
- (iv) presentation of minutes of Cabinet decisions falling within the remit of the Overview and Scrutiny Committee by a representative of the Cabinet;
- (v) an outline by a representative of the Cabinet of the Cabinet Forward Plan in respect of any matters falling within the remit of the relevant Overview and Scrutiny Committee and an outline of any requests for policy review studies;
- (vi) receiving the minutes of any Regulatory Committee falling within the remit of the relevant Overview and Scrutiny Committee. (The Overview and Scrutiny Committees should not normally scrutinise individual decisions made by such Committees but may make reports and recommendations on non-executive functions);
- (vii) responses of the Cabinet to reports of the Overview and Scrutiny Committees; and
- (viii) the business otherwise set out on the agenda for the meeting.

- 16.2 Where an Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, the Committee shall prepare a report for submission to the Cabinet and/or Council, as appropriate, and shall make its report and findings public.

17. Matters within the Remit of more than one Overview and Scrutiny Committee

Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committee, the decision as to which Overview and Scrutiny Committee shall consider it shall be resolved by agreement of the Overview and Scrutiny Committee chairs.

18. Appointment of Chair and Vice-Chair

- 18.1 The Chair and the Vice-Chair of each of the Overview and Scrutiny Committees shall be appointed by Council.
- 18.2 If, for any reason, they are not appointed, the Committee shall appoint them from amongst its voting Members.
- 18.3 If the Chair and the Vice-Chair are absent from any meeting, the Committee shall appoint a person to preside for the meeting only, from amongst its voting Members. The procedure for such appointment shall accord with the provisions contained in the Council Procedure Rules.

19. Appointment of Working Parties

- 19.1 Overview and Scrutiny Committees shall be entitled to appoint panels for a fixed period on the expiry of which they shall cease to exist.
- 19.2 When appointing such panels, Overview and Scrutiny Committees shall be entitled to appoint co-optees to those panels and to invite Members of the Cabinet, Regulatory Committees and other Overview and Scrutiny Committees to become Members of the working panel.

- 19.3 Panels shall comprise at least three Members to include elected Members, co-optees and officers.
- 19.4 Overview and Scrutiny Committees shall fix the date and time and venue of any meeting of any panel established by them, may appoint a convenor from amongst its Members to fix the date and time and venue of such meetings or may authorise the panel Members jointly to determine the date, time and venue of their meetings.
- 19.5 When establishing a panel (including a task and finish group) the relevant Overview and Scrutiny Committee shall be required to determine:-
- (i) its remit;
 - (ii) its duration and procedures for reporting back to the parent Committee or directly to Cabinet in cases of urgency;
 - (iii) its membership; and
 - (iv) all panels, including task and finish groups, be held in private unless an express resolution is passed to the contrary
- and shall be required to formally notify the Monitoring Officer in writing of the above so that a central register of working parties can be maintained.
- 19.6 The quorum for panel meetings shall be two Members of the working party.

20. Councillor Call for Action

Any Member of the Council may bring forward a Councillor Call for Action to the appropriate Overview and Scrutiny Committee in accordance with the Local Government and Public Involvement in Health Act, 2007.

FINANCIAL PROCEDURE RULES

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Status of Financial Regulations

- 1.1** Financial regulations provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 1.2** The regulations identify the financial responsibilities of the full council, cabinet and scrutiny members, the Head of Paid Service (the Chief Executive), the Monitoring Officer, the Executive Directors, Service Directors and Cabinet members. The Chief Executive, the Executive Directors, Service Directors and Service Managers shall maintain a written record where decision making has been delegated to members of their staff, including seconded staff. References to "Service Manager" and "Service Directors" includes the Chief Executive and Executive Directors in respect of the units under their direct managerial responsibility.
- 1.3** All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4** The Chief Finance Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the council and/or to the cabinet members.
- 1.5** The authority's detailed financial procedures, setting out how the regulations will be implemented, are contained as attachments to the financial regulations.
- 1.6** The Chief Executive, Executive Directors and Service Directors are responsible for ensuring that all staff are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their services. Copies of these Financial Regulations and Procedures are available on the Council's intranet.
- 1.7** The Chief Finance Officer is responsible for issuing advice and guidance to underpin the financial regulations that members, officers and others acting on behalf of the authority are required to follow.

Financial Regulations

FINANCIAL REGULATION A: FINANCIAL MANAGEMENT

INTRODUCTION

- A.1** Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

THE FULL COUNCIL

- A.2** The role of the full council is described in Article 4 (Part 2) of this constitution and in relation to the budget and policy framework, in the Budget and Policy Framework Procedure Rules in Part 4

THE EXECUTIVE (THE CABINET)

- A.3** The Cabinet is responsible for proposing the policy framework and budget to the full council, and for discharging executive functions in accordance with the policy framework and budget.
- A.4** The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

COMMITTEES OF THE COUNCIL

Scrutiny Committees

- A.5** The Council's scrutiny committees are responsible for scrutinising cabinet decisions before or after they have been implemented and for holding the cabinet to account. They are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.

Standards and Audit Committee

- A.6** Standards Committees were established by the Local Government Act 2000 as statutory committees, but under the Localism Act 2011 there is no longer a requirement to have one. The Council has decided to keep a Standards and Audit Committee. It also has some additional responsibilities given to it by the full council. It is responsible for promoting and maintaining high standards of conduct amongst councillors and for certain audit and control environment issues. In particular, it is responsible for advising the council on the adoption and revision of the members' Code of Conduct, giving dispensations, and for monitoring the operation of the code.

Employment and General Committee

- A.7** The appointment, dismissal and terms and conditions of employees are not executive functions. Insofar as they are not matters which must be dealt with by the head of paid service / Heads of Service, they are dealt with by the Employment and General Committee, together with certain electoral registration and electoral matters.

Regulatory Committees

- A.8** Planning and licensing are not executive functions but are exercised through the multi-party planning, appeals and regulatory and licensing committees committee.

THE STATUTORY OFFICERS

- A.9** The responsibilities of the Statutory Officers are described in Article 12 (Part 2) of this Constitution (Officers)
- A.10** The Chief Finance Officer, and the officer acting as the head of the Revenues Service for the Council (in respect of revenues and debt collection) are responsible for:
- the proper administration of the authority's financial affairs
 - setting and monitoring compliance with financial management standards□advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
 - providing financial information
 - preparing the revenue budget and capital programme
 - treasury management
 - recovery of all revenue and debts owed to the Council.

SERVICE DIRECTORS

- A.11 Service Directors** are responsible for:
- ensuring that cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer
 - (subject to the rules in this Constitution, in particular Article 14 of Part 2) - signing contracts on behalf of the authority.

A.12 It is the responsibility of the Chief Executive, Executive Directors and Service Directors to consult with the Chief Finance Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred. the Chief Executive, Executive Directors and Service Directors must inform the Chief Finance Officer of all Cabinet Member meetings which will be considering financial issues (including late items).

A.13 Spending and Income

Unless stated otherwise in this Constitution, the delegation to the Chief Executive, Executive Directors or any Service Director of the carrying out of any function includes the delegation of the power to spend (revenue or capital) up to **£25,000** or to receive up to £25,000 capital, in order to carry out that function, subject to the following conditions:

A.13.1 that **in relation to any item**, the spending or receipt:

- is in accordance with this Constitution, AND
- is in accordance with an approved policy or Cabinet Council Cabinet Member or Committee decision AND
- is provided for in:
 - the annual Council budget, OR
 - an approved business plan, OR
 - a supplementary estimate, OR
 - an annual or standing contract;

A.13.2 that **in relation to capital spending**, there is provision in a project evaluation report, and (if appropriate) that a tender has been accepted, and

A.13.3 that the financial limit of £25,000 has not been avoided by artificially splitting up the amount of any payment due.

A.14 Exceptions to A.13

The limit of £25,000 in paragraph A.13 shall not apply where capital or revenue spending over the limit of £25,000, is required in order to:

- comply with Cabinet/Council approved annual budget(s) OR
- make payments under approved annual, standing or capital scheme contracts OR
- pay for emergency works, goods or services OR
- comply specifically with a legal duty of the Council (e.g. mandatory renovation grants) OR
- pay for the supply of work, goods or services by one DSO to another DSO under a Council approved scheme.

OTHER FINANCIAL ACCOUNTABILITIES

Virement

- A.15** The full council is responsible for agreeing procedures for virement of expenditure between budget headings.
- A.16** The Scheme of Virement is set out in the Financial Procedures which form part of these Financial Regulations.

Treatment of Year-end Balances

- A.17** The cabinet is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

Accounting Policies

- A.18** The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

Accounting Records and Returns

- A.19** The Chief Finance Officer is responsible for determining the accounting procedures and records for the authority.

The Annual Statement of Accounts

- A.20** The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and the Accounts and Audit Regulations 2003. The Standards and Audit Committee is responsible for approving the annual statement of accounts, which is a non-executive function.

FINANCIAL REGULATION B: FINANCIAL PLANNING

INTRODUCTION

- B.1** The full council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the cabinet. In terms of financial planning, the key elements are:
- the community strategy
 - the budget
 - the capital programme.

POLICY FRAMEWORK

- B.2** The full council is responsible for approving the policy framework and budget. The policy framework comprises the plans and strategies *listed at Article 4 (Part 2) of this Constitution*:
- B.3** The full council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions shall be referred to the full council by the Monitoring Officer.
- B.4** The full council is responsible for setting the level at which the cabinet may reallocate budget funds from one service to another. The cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the council.

Preparation of the Community Strategy

- B.5** The Chief Executive is responsible for proposing the Community Strategy to the cabinet for consideration before its submission to the full council for approval and/or the full council on prudent levels of reserves for the authority.

FINANCIAL REGULATION C: RISK MANAGEMENT AND CONTROL OF RESOURCES

INTRODUCTION

- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This shall include the proactive participation of all those associated with planning and delivering services.

RISK MANAGEMENT

- C.2** The cabinet is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The cabinet is responsible for ensuring that proper insurance exists where appropriate.

The Standards and Audit Committee has the following terms of reference:

- To consider the effectiveness of the Council's risk management arrangements;
- To ensure that the Council's assurance statements properly reflect the risk environment

- To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.

C.3 The Risk Management Group is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority.

INTERNAL CONTROL

C.4 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded. The Internal Audit Manager ^{lxxi} will prepare a statement on internal control, to be published with the statement of accounts, as required by the Accounts and Audit Regulations 2003.

C.5 The Internal Audit Manager is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They shall ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

C.6 It is the responsibility of Service Managers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

AUDIT REQUIREMENTS

C.7 The Accounts and Audit Regulations 2003 require every local authority to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices.

C.8 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

C.9 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

PREVENTING FRAUD AND CORRUPTION

C.10 The Internal Audit Manager/Standards and Audit Committee is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

ASSETS

- C.11** Service Managers shall ensure that records and assets are properly maintained and securely held. They shall also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

TREASURY MANAGEMENT

- C.12** The authority has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code) 2001 as described in section 4 of that Code.
- C.13** Accordingly, the authority has created and will maintain, as the cornerstones for effective management:
- a treasury management policy statement (TMPS), stating the policies and objectives of its treasury management activities
 - suitable treasury management practices (TMP), setting out the manner in which the authority will seek to achieve those policies and objectives and prescribing how these activities will be controlled and managed
- C.14** The full Council will approve the treasury management strategy / policy, practices and activities including.
- C.15** The Council has delegated responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet. The Cabinet will, as a minimum, receive a report on the strategy and plan in advance of the year, an annual report after its close, in the form prescribed in the TMP.
- C.16** The Chief Finance Officer has delegated responsibility for the execution and administration of treasury management decisions in accordance with the authority's policy statement and TMPs. If the Chief Finance Officer is a CIPFA member, they must also act in accordance with CIPFA's Standard of Professional Practice on Treasury Management.

STAFFING

- C.17** The Cabinet/Employment Committee are responsible for determining how officer support for executive and non-executive roles within the authority will be organised.
- C.18** The Chief Executive is responsible for providing overall management to staff. The Human Resources Manager is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

C.19 Service Managers are responsible for controlling total staff numbers by:

- operating within approved staffing establishments
- advising the cabinet on the budget necessary in any given year to cover estimated staffing levels
- adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
- the proper use of appointment procedures approved by the council.

FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES

INTRODUCTION

D.1 Sound systems and procedures are essential to an effective framework of accountability and control.

General

D.2 The Chief Finance Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Service Managers shall obtain the prior approval of the Internal Audit Manager to any changes to the existing financial systems or to the establishment of new systems. However, Service Managers are responsible for the proper operation of financial processes in their own Service Areas.

D.3 Any changes to agreed procedures by Service Managers to meet their own specific service needs shall be agreed with the Internal Audit Manager.

D.4 Service Managers shall ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

D.5 Service Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Service Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

Income and expenditure

D.6 It is the responsibility of The Chief Executive, Executive Directors and Service Managers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation shall identify staff authorised to act on the Chief Executive's, Executive Directors' and Service Managers' behalf, or on behalf of the executive, in respect of payments, income collection and placing orders, together with the limits of their authority. The cabinet is responsible for approving procedures for writing off debts as part of the delegation scheme (Part 3 of this constitution)

Payments to employees and members

- D.7** The Chief Finance Officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

Taxation

- D.8** The Chief Finance Officer is responsible for advising officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.9** The Chief Finance Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

TRADING ACCOUNTS/BUSINESS UNITS

- D.10** It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS

INTRODUCTION

- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

PARTNERSHIPS

- E.2** In relation to executive functions, the cabinet is responsible for approving delegations, including frameworks for partnerships. The cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in Part 3 of the Constitution. Where functions are delegated, the cabinet remains accountable for them to the full council.
- E.4** The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

- E.5** Service Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

EXTERNAL FUNDING

- E.6** Service Managers shall notify the Chief Finance Officer of all applications and approvals of external funding. The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

WORK FOR THIRD PARTIES

- E.7** Service Managers are shall ensure that the Contract Procedure Rules on the Provision of Work, Goods or Services by the Council are followed in appropriate circumstances.

FINANCE RULES

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1 Status of and responsibilities under the Finance Rules

The Finance Rules provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the authority and anyone acting on its behalf. The rules define the financial responsibilities of the full council, the Cabinet, Members and Officers. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorized, provides value for money and achieves best value.

(a) Responsibilities of the Chief Finance Officer

The Chief Finance Officer is responsible for regulating and controlling the finances of the Council and hence they shall, for the purposes of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988, be responsible for the proper administration of the Council's financial affairs.

(b) Responsibilities of Service Directors and Service Managers

Service Directors and Service Managers are responsible for the financial management of their areas, they must:

- Ensure the highest standards of financial probity.
- Ensure compliance with the Finance Rules and any procedures or guidance issued by the Chief Finance Officer within their service area.
- Ensure that a proper scheme of delegation has been established in their area of responsibility and that it is operating effectively.
- Consult Internal Audit before making any changes to financial systems and procedures.
- Monitor monthly the overall financial position of their service area.
- Maintain up to date inventories
- Advise the Chief Finance Officer and relevant Cabinet member on issues/proposals that have a financial impact in their area.
- Provide information to the Council's auditors on a timely basis as required.
- Ensure that any audit recommendations are considered and responded to promptly and that agreed recommendations are implemented within agreed timescales.

(c) Responsibilities of Line Managers

Line managers must make sure their staff understand and follow these Rules and any procedures and associated guidance issued by the Chief Finance Officer.

(d) Responsibilities of all Officers

Officers must be familiar with these Finance Rules and the Contract Procedure Rules and must understand how they affect their work. If any officer is unclear about these Rules, they must get advice before acting. They would normally get advice from their line manager but they can also talk to finance staff. Officers must ensure they are using the latest version of these Rules. This will always be the version in the Constitution available on the intranet. Officers must show the highest standards of financial probity. As well as following these Rules, they must use their common sense and judgement.

2 Audit

(a) Internal Audit

In accordance with the Accounts and Audit Regulations the Council is responsible for ensuring an 'adequate and effective system of internal audit'. The Chief Finance Officer has responsibility for monitoring adherence to the Audit Plan. Audits will be carried out in accordance with CIPFA Guidelines. At the commencement of the financial year the Standards and Audit Committee will approve an audit plan for that year. On a quarterly basis the Standards and Audit Committee will receive an update report on the progress made in delivering the plan including progress on implementation of internal and external audit recommendations.

The Chief Finance Officer will arrange for the accounting records and systems of internal control of the Council to be subject to an adequate and effective system of internal audit in accordance with proper internal audit practices. The Internal Audit Manager or their authorised representative is authorised to -

- (a) have access, at all reasonable times, to all Council land and premises;
- (b) examine any records, documents, information or correspondence held by Council officials and members which relate, directly or indirectly, to the Council's finances;
- (c) require any Council official or member to produce any Council-owned cash or property under their control;
- (d) check Council inventories;
- (e) request and receive explanations on any matter under examination.

The Chief Executive, Executive Directors and Service Managers will immediately notify the Chief Finance Officer or the Internal Audit Manager (each of whom will inform the other) of any financial irregularity, suspected irregularity or circumstances suggesting the possibility of an irregularity, including those affecting Borough Council cash and property. Pending investigation and reporting, the Chief Executive, Executive Directors, Service Directors or Service Managers should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

The Internal Audit Manager will immediately investigate such matters and, where there is evidence of possible irregularities, will notify the Chief Executive.

Service Directors/Service Managers must ensure that all the agreed recommendations in audit reports are implemented (see Responsibilities of Service Directors/Service Managers above).

(b) External Audit

External Auditors review the Council's financial and management systems and report annually to the Standards and Audit Committee on the adequacy of the Council's internal controls. External Auditors have the right to inspect all records held by the Council.

The External Auditor undertakes an annual audit of the Council's Statement of Accounts, audits specified grant claims and reports annually on the Council's governance framework and delivery of value for money. The External Auditor has the right to inspect records and to ask for information and explanations. The Chief Finance Officer has overall responsibility for liaising with the external auditors.

3 Non-compliance with these Rules

If Officers suspect that these Rules have not been complied with, or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved). The Council's whistle blowing policy (Guidance on Confidential Reporting) has guidance on what to do if a line manager is involved. If these Finance Rules or the Avoiding Bribery Fraud and Corruption Policy have been breached, the Chief Finance Officer and/or the Monitoring Officer must be advised in writing by the line Manager as soon as possible.

4 Information and records

The Chief Finance Officer is responsible for the Council's accounting system, the form of accounts (including trading accounts) and the supporting financial records. The Chief Finance Officer will ensure that accounting records are sufficient to comply with the Accounts and Audit Regulations for the time being in force.

Service Managers must:

- Obtain the approval of the Internal Audit Manager before changes are made to existing financial systems or new systems acquired.
- Ensure that financial records are properly maintained and are held securely in accordance with the Council's Data Management Policies.

- Consult the Chief Finance Officer on proposals for establishing trading accounts.

5 Budget Setting

On an annual basis the Chief Finance Officer shall submit to Council a programme of capital expenditure and estimates of revenue income and expenditure for Council services for at least the proceeding four years. Council will approve the Council Tax for General Fund services and a weekly Council house rent for the ensuing year.

6 Responsibility for Budget Decisions

Responsibilities for budget decision are shown in the table below:

Cabinet Decisions	Full Council Decisions
Annual Budget Setting <ul style="list-style-type: none"> • Agreeing the strategy for setting fees and charges • Recommending the Local Council Tax Support Scheme to full Council • To recommend the planned use of reserves and delegation limits to full Council • Recommending the revenue budget and Council Tax to the full Council 	<ul style="list-style-type: none"> • Approving the Local Council Tax Support Scheme • Approving the use of reserves and delegation limits • Approving the revenue budget • Setting the Council Tax
Budget Monitoring & Changes <ul style="list-style-type: none"> • Monitoring delivery of financial performance • Recommending supplementary budget requests to full Council • Agreeing revenue budget transfers (virements) between services of between £50,000 and £100,000 that are in line with the Council's policy framework • Agreeing the use of reserves not included in the approved budget but within the delegated limits set each financial year. 	<ul style="list-style-type: none"> • Monitoring delivery of financial performance • Agreeing supplementary estimates to either the revenue or capital budgets • Agreeing budget transfers (virements) between services that are over £100,000 or breach the policy framework • Agreeing the use of earmarked reserves beyond the delegated limits set for the Cabinet or where there is a request to use an

Cabinet Decisions	Full Council Decisions
<ul style="list-style-type: none"> • Recommending the use of earmarked reserves for an unrelated purpose to the full Council. 	<p>earmarked reserve for an unrelated purpose.</p>
<p>Capital Programme</p> <ul style="list-style-type: none"> • Recommending the Capital Programme (General Fund and Housing) to Full Council • Agreeing virements within the approved Capital Programmes of between £50,000 and £100,000 (Senior Leadership Team to approve up to £50k) • Approving supplementary capital schemes which are fully funded from external sources and where there are no on-going revenue budget implications beyond those that can be accommodated within the delegates virement limits. 	<ul style="list-style-type: none"> • Agreeing or changing the Capital Programme (General Fund and Housing)
<p>Housing Revenue Account</p> <ul style="list-style-type: none"> • Recommending the Housing Rents and Business Plan to Full Council 	<ul style="list-style-type: none"> • Setting housing rents and agreeing the Housing Business Plan
<p>Treasury Management</p> <ul style="list-style-type: none"> • Reviewing the Treasury Management Strategy before it goes to Full Council 	<ul style="list-style-type: none"> • Agreeing or changing the Treasury Management Strategy
<p>Risk Management</p> <ul style="list-style-type: none"> • Recommending the Risk Management Strategy to full Council 	<ul style="list-style-type: none"> • Agreeing or changing the Risk Management Strategy
<p>Asset Management</p> <ul style="list-style-type: none"> • Recommending the Corporate Asset Management Plan to full Council • Recommending to the full Council transfer(s) of assets between the General Fund and Housing Revenue Account 	<ul style="list-style-type: none"> • Agreeing the Corporate Asset Management Plan • Agreeing asset transfers between the General Fund and Housing Revenue Account

7 Reserves and Provisions

The Chief Finance Officer shall establish reserves and provisions to meet known or estimated future liabilities.

There is a duty on the Chief Finance Officer to report on the robustness of the estimates and the adequacy of reserves when the Authority is considering its budget requirement and Members are required to have regard to this advice.

Service Directors/Service Managers must inform the Chief Finance Officer about potential future liabilities which they become aware of.

The relevant budget holder can incur expenditure covered by the planned use of Reserves included in the budget approved by the full Council. All other uses or Reserves should be approved as follows:

- The Senior Leadership Team/Cabinet can approve the use of earmarked reserves, for their originally intended purpose, within the delegated limits set by the full Council each financial year (**Appendix 1**).
- Any use of the Council's earmarked reserves beyond the delegated limits, or for an unrelated purpose, must be approved by the full Council.

The Chief Finance Officer can approve the use of Provisions where they are being used for their intended purpose (**Appendix 1**), otherwise full Council approval is required.

The details of these delegated decisions will be included in the next quarterly budget monitoring report to the full Council.

8 Budgetary Control

Ongoing budget management and control is necessary to ensure that approved budgets are used only for their intended purpose and accounted for and reported correctly and that Council services are delivered within budget.

(a) The following are the general principles of the budgetary control framework

- All budgets are assigned to an Service Director or Service Manager who is accountable for the control and management of that budget in accordance with these Rules and any financial procedures or guidance issued by the Chief Finance Officer
- Service Directors/Service Managers will report on their budget on a regular basis to the Chief Finance Officer in a format and timeframe prescribed by the Chief Finance Officer.

- Service Directors/Service Managers will inform the Chief Finance Officer about any external grant applications and approvals and ensure that the grant conditions, including the claim submission dates, are met.
- The Chief Finance Officer will validate the information provided by the Service Directors/Service Managers and report periodically to relevant Officers and to the Cabinet on a quarterly basis. The report will include the projected outturn position, any associated risks and mitigating actions to be taken as well as the impact on future year budgets.
- The relevant Service Director/Service Manager is the Officer accountable for authorising the commitment of resources against the budget.

(b) Virement Rules – Revenue

The overall budget is agreed by the Cabinet and approved by the Full Council. Senior Officers and budget managers are therefore authorized to incur net expenditure in accordance with the estimates that make up the budget for the current financial year.

The virement rules provide for the transfer of budgets within the financial year. A virement is a planned transfer of a budget for use in a different purpose to that originally intended.

A virement occurs when a budget is transferred from one subjective heading to another (for example from Supplies & Services to Transport expenditure) or from one service cost centre to another. Transfers within a subjective heading within the same cost centre are not defined as virements.

The scheme of virement enables budget holders to manage their budgets with a degree of flexibility and therefore to provide an opportunity to optimise their use of resources according to changing needs.

All virements must be notified in writing to the Chief Finance Officer.

The full Council approves the virement limits before the start of each financial year as part of the budget setting process. The current limits are shown in **Appendix 1**.

Service Directors/Service Managers should avoid supporting recurring expenditure from one-off sources of savings or income, or creating

future commitments, including full-year effects of decisions made part way through a year, for which future resources have not been identified. On-going commitments must be met from within existing budgets.

Permanent virements would be addressed as part of the budgetary process for the following year or, where urgent, through the approval of the Cabinet and Council.

Revenue budgets may be vired to support capital expenditure. The rules concerning the virement of capital budgets are included in paragraph 10 below.

Full Council must agree any transfers between the General Fund and Housing Revenue Account.

(c) Supplementary Estimates

Where an item of overspend of revenue spend cannot be covered from virement then following consultation with the Chief Finance Officer and the Senior Leadership Team a supplementary estimate approval must be sought from the full Council.

The Cabinet and Senior Leadership can approve expenditure to be met from the Budget Risk Reserve or other appropriate reserve subject to the limits agreed by the full Council each year (**Appendix 1**).

The Cabinet, a committee of the Cabinet, or an individual Lead Member can make spending decisions which are contrary to or not in full accordance with the budget approved by the full Council if the decision is a matter of urgency. However, the decision may only be taken if:

- i) It is not practical to convene a quorate meeting of the full Council; and
- ii) The Chair of the Scrutiny Board or the Mayor or Deputy Mayor, in that order subject to availability, agrees that the decision is a matter of urgency.

Following the decision, a report will be provided to the next available full Council meeting explaining the decision.

(d) Carry Forward of Budget Underspends

Service Directors/Service Managers should submit carry forwards requests to the Senior Leadership Team for initial consideration before they are submitted to the Cabinet for final approval. Requests will only be considered where there is an underspend on a Service's overall controllable budgets (i.e. excluding capital and support service recharges) and where the budget is to be used to finance one-off type expenditure in the following financial year.

9 Capital Strategy

The Chief Finance Officer will prepare a Capital Strategy which:

- Sets out the principles the Council will follow in its capital planning and management.
- Outlines the methodology for inclusion of schemes within the Capital Programme.
- Sets out the arrangement for management of capital schemes.

The Capital Strategy will be reviewed each year by the full Council at the same time as the Capital Programme is approved. The Capital Programme will detail the capital schemes to be undertaken over the following four financial years and how those schemes will be funded.

10 Monitoring of the Capital Programme

The Capital Programme is approved as part of the Council's annual budget setting process. Monitoring of the Capital Programme will be undertaken by the Chief Finance Officer in conjunction with Project Managers and associated Service Managers. A report will be submitted to relevant Officers periodically, and to the Cabinet on a quarterly basis, setting out the projected outturn and progress of schemes including slippage, under and overspends together with any proposed mitigating actions.

The Cabinet can approve supplementary capital schemes provided they are fully funded from external sources and there are no on-going revenue budget implications.

Capital expenditures may only be incurred if:

- Budgetary provision has been made within the approved Capital Programme
- Project Evaluation report approval, if required, has been given (see paragraph 11, below). This can take place either before or after the full Council has approved the inclusion of the scheme in the Capital

Programme, but must be concluded before contracts are awarded. The Chief Finance Officer must be consulted on the draft Project Evaluation reports before they are presented for approval. The Senior Leadership Team can give project approval for schemes up to £100,000 and projects over £100,000 require Cabinet approval.

- The Contract Procedure Rules have been complied with.

Where it is anticipated that the budget for a capital project will be overspent against its approved budget the relevant Service Director/Service Manager will be responsible for notifying the Chief Finance Officer. Overspend up to £50,000 may, with the approval of the Senior Leadership Team, be financed by virement from other schemes' underspending within the approved Capital Programme. Where monies cannot be vired from other schemes the projected overspend must be reported to the Cabinet and subsequently full Council requesting a supplementary estimate if required.

Where it is not possible for a scheme to progress in a particular year the Senior Leadership Team can approve the slippage of the balance of the approved capital budget for a scheme to future years.

11 Capital Project Evaluation Approval

Project approval must be obtained for projects in accordance with the following limits:

- Up to £100,000 – by the Senior Leadership Team.
- £100,000 and over – Cabinet

The project approval report must include:

- A description of the scheme which is sufficient to give an understanding of what the scheme involves.
- The aim of the project and any other ways of achieving it
- Effects on staffing
- Legal, contractual and prudential borrowing code implications
- If the Council is acting through an agent or partnership, legal advice on whether it has the power to act in this way
- Consultation undertaken.
- The estimated amount and timing of any capital and revenue spending, any ongoing effect on revenue, and whether this spending is included in the budget.
- The anticipated outcomes.
- A risk assessment of the proposal.
- Any sustainability, environmental, equalities considerations.

12 Capital Project Completion Reviews

When a discreet project is completed the relevant Service Director/Service Manager must undertake a Post Implementation Review. Recurring programmes such as Decent Homes, and Disable Facilities Grants should be subject to a review at least every three years. The review should identify if the original budget, timescales and outcomes were achieved and if there are any lessons learnt that can be applied to improvement the delivery of future projects. The timing of the review will depend on when the outcomes can be fully evaluated. The review reports are to presented to:

- a) The Senior Leadership Team and Financial Planning Group for projects costing up to £100,000; and
- b) The Cabinet for projects costing £100,000 or more.

13 Treasury Management

(a) Treasury Management Strategy

The Chief Finance Officer will produce and submit the Treasury Management Strategy to the Cabinet for recommendation to full Council. The Strategy will set out the Council's treasury plans for the next year (including any prudential borrowing plans). The Strategy will include a list of organisations the Council may borrow from and lend to and the maximum individual amounts it may borrow or lend. The Strategy must be agreed by full Council.

(b) Day-to-day Treasury management Operations

The Chief Finance Officer is responsible for day-to-day treasury management operations. These will follow the Treasury Management Strategy, and ensure that:

- All borrowing and investment complies with the Council's Treasury Management Strategy and the Chartered Institute of Public Finance and Accountancy's code of practice on treasury management
- All borrowing and lending is done in the name of the Council
- As a minimum a half yearly and annual update of treasury management activity will be reported to the Cabinet and the Standards and Audit Committee.

(c) Bank Account

Only the Chief Finance Officer or the Deputy S151 Officer may open a bank or building society account on behalf of the Council. The Chief Finance Officer is responsible for managing all accounts.

14 Asset Management

(a) Responsibilities of Corporate Property Manager

The Council's corporate property adviser, namely the Council's corporate property manager for the time being, ("Corporate Property Advisor") will:

- Produce guidelines for acquiring, managing and disposing of assets
- Make sure the Council's records include any money from sales
- Make sure the Council's records do not include the value of any assets that have been disposed of.

(b) Register of Fixed Assets

The Chief Finance Officer will keep a register of all fixed assets worth more than £25,000 (or, if different, the level set out in the Council's approved accounting policies). Service Managers must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Chief Finance Officer in conjunction with the Corporate Property Adviser will check that the assets are still shown at the right value, that they have a suitable asset life and that they have been properly depreciated.

(c) Disposing of assets (except land)

Subject to consultation with the Chief Finance Officer, Service Directors/Service Managers can dispose of assets worth up to £10,000. All disposals (including land) must be notified to the Chief Finance Officer.

(d) Arranging leases

The Chief Finance Officer must approve all leases for non- property items.

15 Ordering and Paying for Goods and Services

The Chief Finance Officer shall ensure that there are proper procedures and controls for ordering and paying for goods and services. Any new systems for orders or payments must be agreed by the Chief Finance Officer. Service Directors/Service Managers must ensure that:

- (a) Official orders (using the agreed corporate order form) are issued for all goods and services prior to receipt. Exceptions to this rule are:

- (i) Utility bills
 - (ii) Payroll cheques
 - (iii) Staff expenses
 - (iv) Subscriptions
 - (v) Grants
 - (vi) Refunds
 - (vii) Compensation payments
 - (viii) Payments of rent for privately leased properties
- (b) Orders for goods and services must only be issued where the expenditure is provided for within the approved budget or is covered by an appropriately approved virement or a supplementary estimate.
- (c) Official orders must indicate clearly the nature and quantity of the work or services required and also the financial commitment.
- (d) The authorization limits for requisitions and payments are:

Authoriser	Limit
SLT	Above £100,000
CLT/SLT	Up to £100,000
Budget Holders	Up to £2,500

- (e) Service Directors/Service Managers must also ensure:
- That staff involved in payment processing are adequately trained.
 - That there is adequate separation of duties between staff ordering, receiving and approving invoices for payment.
 - That suppliers are advised that the Council's preferred means of payment is by bankers automated credit (BACS) and that remittance advices should be sent via email.
 - That only goods and services that have been received, examined and approved as to their quality and quantity or the work or service has been satisfactorily performed are paid for and that the prices, arithmetic and budget allocation are correct.
 - That payments are timely and made within the Council's agreed terms of business, unless the invoice is in dispute.

(e) Responsibilities of Service Directors/Service Managers

Service Directors and Service Managers are responsible for their service areas' orders and for ensuring that invoices are appropriately approved. They must make sure that Officers who order and authorise invoices for payment have been properly trained and that there is adequate separation of duties between order and approval for goods.

Officers must also have regard to the guidance on the intranet in relation to the ordering and paying for goods and services.

16 Contract Payments

The Chief Finance Officer will keep a register of interim payments made under formal contracts. The register will include any other payments and related professional fees.

The Property Procurement and Contracts Manager will let the Chief Finance Officer have, as soon as possible, full details of contracts entered into by the Council.

Payments to contractors will be made only after certificates have been issued by the Service Director/Service Manager or other officer authorised by him/her. The form of certificates will be approved by the Internal Audit Manager.

Variations to contracts must be authorised by the responsible Service Director/Service Manager. The responsible Service Director/Service Manager will issue to the contractor an official variation order in writing specifying the variation and the basis of charge. The responsible Service Director/Service Manager will calculate the financial effect of the variation and maintain a record showing his/her up-to-date estimate of the revised contract sum.

The Service Director/Service Manager must report in writing to appropriate member(s) in accordance with Part 3 of this Constitution:-

- If the original contract sum is increased by more than 10%, after allowing for any reductions in that sum;
- Where the estimated cost of any individual addition to the contract sum exceeds 10% of the original contract sum.

In exceptional circumstances where an Service Director/Service Manager has not been able to report items as above, the Chief Finance Officer will nevertheless pay any increases in costs over the contract sum, which have been certified by the responsible officer, in recognition of the Council's contractual obligations. However a report must still be submitted to the appropriate Member(s).

The Internal Audit Manager will, as far as s/he considers it necessary, examine contract final accounts. S/he can make whatever enquiries s/he needs to satisfy himself/herself that the accounts are accurate.

Within fifteen months of the completion of a contract, the responsible Service Director/Service Manager and the Chief Finance Officer must report to the appropriate Member(s) on the final account.

- The report should compare the actual costs with those in the approved project evaluation report and should indicate reasons for variations.
- Final accounts should refer to the overall costs of schemes including the contract works element, design, supervisory, land and landscaping costs, etc.
- For capital receipt and revenue producing schemes, the report should also give a comparison of actual and anticipated receipts and identify any anticipated delays.

Final certificates (i.e. for final payment less retention monies) should not be issued until final accounts have been examined by the Internal Audit Manager. In cases where final accounts exceed original contract sums as adjusted for approved variations, final certificates should not be issued until the final amounts have been approved by the appropriate Member(s). Specific provision should be made for this in contract documents.

Where the completion of a contract is unreasonably delayed by the contractor, the Service Director/Service Manager involved will, after consultation with the relevant Service Manager in Legal Services, take appropriate action to claim for liquidated damages.

Performance bonds will not be released until Certificates of Practical Completion have been issued.

In cases where contractors have gone into liquidation/bankruptcy or have otherwise failed to fulfil their contractual obligations, the approvals of the relevant Service Manager in Legal Services and the Internal Audit Manager must be obtained before contract bonds are released.

17 Wages, Salaries and Pensions

The Council has appointed a contractor to be responsible for paying all wages, salaries and expenses, including councillors' allowances.

Service Directors/Service Managers must advise the Contractor on a timely basis of any changes to staff pay and any deductions that need to be made, in particular:

- Appointment, resignations, dismissals, suspensions, secondments and transfers

- Long term absences from duty for sickness or other reasons apart from approved leave
- Changes in remuneration, other than normal increments and pay awards
- Information necessary to maintain records for service for superannuation, income tax, national insurance and sickness or maternity benefit

All salaries and wages and allowances will be paid into an employee's or member's bank account.

18 Petty Cash

The Chief Finance Officer will oversee the system of petty cash floats and may provide petty cash advances for such officers of the Council as may need them. Floats will only be topped up when a proper claim is made with receipts for all items. The Chief Finance Officer will give detailed guidance on petty cash.

19 Income Collection

(a) Responsibilities of the Senior Leadership Team

To ensure that appropriate arrangements are in place to safeguard the Council's resources

(b) Responsibilities of Chief Finance Officer

The Chief Finance Officer is responsible for ensuring that systems are in place to ensure that all income is identified, collected, receipted and promptly banked.

(c) Responsibilities of Service Directors/Service Managers

Service Directors/Service Managers must have robust processes in place for dealing with income collection in their service area where required. There must be extra controls in service areas that collect cash or cheques. Service Directors/Service Managers must ensure that:

- They raise invoices as soon as reasonably practical for all goods and services provided on credit.
- They follow the systems and procedures laid out by the Chief Finance Officer.
- Officers are suitably trained.

- Official receipts are always given.
- Proper records are kept.
- Money is banked on the day it is received or as soon as possible thereafter.
- VAT is properly accounted for

Service Directors/Service Managers must have effective systems for monitoring income due to their service area. The Chief Finance Officer must be advised if income targets are unlikely to be achieved and must be advised of any cases of financial impropriety.

(d) Writing off debt

Amount for any one debtor in any one year	Approved By
Up to £2,000	Customer services Head of Operations in consultation with the relevant Service Director/Service Manager
Between £2,000 and £20,000	Chief Finance Officer and customer services Head of Operations in consultation with the relevant Service Director/Service Manager
Between £20,000 and £50,000	Cabinet Member
Above £50,000	Cabinet

(e) Cancelling debt

Debts can only be cancelled if they have been raised by mistake. All cancellations over £2,000 must be agreed by the Chief Finance Officer.

20 VAT and tax

The Chief Finance Officer is responsible for keeping tax records, advising on tax, making tax payments, receiving tax credits and submitting tax returns. The Chief Finance Officer will advise Officers on the appropriate records to be maintained.

21 Insurance

The Chief Finance Officer will be responsible for establishing adequate insurance cover for the Authority including the amount of excess and the extent to which self-insurance is undertaken.

Service Directors/Service Managers must:

- assist in the annual review of insurance and advise the Chief Finance Officer of changes in insurable risks
- process insurance claims in accordance with procedures laid down by the Chief Finance Officer

22 Risk Management

(a) The key responsibilities in relation to Risk Management are:

- (a) **Full Council** – to approve the Policy and Strategy.
- (b) **Cabinet** – to recommend the Policy and Strategy to the full Council and monitor implementation.
- (c) **Standards & Audit Committee** – review the effectiveness of the arrangements.
- (d) **Senior Leadership Team & Corporate Management Team** - to review and update the Corporate Risk Register.
 - To ensure compliance with the Risk Management Strategy

(b) **Responsibilities of the Chief Finance Officer**

- To periodically review and present for adoption the Risk Management Strategy.
- To present monitoring reports in accordance with the terms of the adopted Risk Management Strategy.
- To provide advice to officers and councillors on risk management
- To provide and facilitate training to officers and members on risk management.

(c) **Responsibilities of CMT & Service Managers**

- Identify and manage risk in their service areas
- Have contingency plans for major risks

- Advise the Chief Finance Officer of any risk that could result in losses or claims against the Council

23 Money Laundering

The Council has procedures for checking the recording the intentions of the people and organisations it does business with and for reporting suspected money laundering.

The Chief Finance Officer is the appointed Money Laundering Officer and as well as ensuring that there are procedures in place to combat money laundering they are required to maintain and review the Council's Anti Money Laundering Procedures.

Officers must not:

- Conceal, disguise, convert, transfer or remove anything gained through crime.
- Tip off a criminal or suspect
- Assist money laundering

24 Fraud and Corruption

The Internal Audit Manager will develop and maintain an Anti-Fraud and Corruption Strategy for approval by the Standards and Audit Committee. Staff and Members should report any concerns about financial irregularities to the Internal Audit Manager.

25 Partnerships

The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The delegations are set out in Part 3 of the Constitution. Where functions are delegated, the cabinet remains accountable for them to the full council.

The **Chief Finance Officer** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

Service Directors/Service Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies and that all such agreements and arrangements are properly documented.

26 External Funding

The Chief Finance Officer must be advised on a timely basis of any application for external funding by the relevant Lead Officer prior to it being submitted.

The Lead Officer must provide such information as requested by the Chief Finance Officer, including copies of proposed agreements and conditions of grant and any financial implications (including match funding requirements or on-going revenue costs).

All external applications must be authorized by the Chief Finance Officer prior to their submission by the Authority.

The Chief Finance Officer must be notified of the outcome of external funding applications at the earliest opportunity and successful external funding applications will be reported to members as part of the normal budget monitoring reports or by a report seeking project approval.

The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

The Service Director/Service Manager responsible for the Lead Officer must ensure that all grant conditions are met and that there is a report made to the Chief Finance Officer if there is any risk of grant conditions not being met.

FINANCE RULES - APPENDIX 1

DELEGATED LIMITS

The delegated limits are to be approved by the full Council each financial year in the Budget Setting report.

All delegated decisions are to be reported to the Chief Finance Officer for inclusion in the next budget monitoring report to the full Council.

1.0 Use Of Reserves And Provisions (Finance Rule 7)

	Chief Finance Officer	Senior Leadership Team	Cabinet	Council
General Fund Reserves	-	<p>In accordance with the intended use of the reserve. For invest-to-save type projects with a pay-back period within 12 months. For each reserve:</p> <ul style="list-style-type: none">• An individual project limit of £25k; &• An aggregate limit for the financial year, the lower of, £100k or 50% of the opening balance. <p>Provided it does not take the balance below any minimum level set by the full Council (e.g. minimum working balance).</p>	<p>In accordance with the intended use of the reserve. For invest-to-save type projects with a pay-back period within 3 years. For each reserve:</p> <ul style="list-style-type: none">• An individual project limit of £50k; &• An aggregate limit for the financial year, the lower of, £150k or 50% of the opening balance. <p>Provided it does not take the balance below any minimum level set by the full Council (e.g. minimum working balance).</p>	<p>If above the delegated limits;</p> <p>If to be used for a purpose other than that for which the reserve was established; or</p> <p>If it takes the reserve balance below the approved minimum level.</p>

	Chief Finance Officer	Senior Leadership Team	Cabinet	Council
HRA Balance	-	Individual projects up to £50k. Aggregate annual limit of £200k. Subject to maintaining the minimum balance approved by the full Council.	Individual projects up to £100k. Aggregate annual limit of £300k. Subject to maintaining the minimum balance approved by the full Council.	If above the delegated limits; If to be used for a purpose other than that for which the reserve was established; or If it takes the reserve balance below the approved minimum level.
Provisions e.g. insurance and Transport Company Pensions	100% - provided used for its intended purpose.	-	-	If to be used for a purpose other than that for which the provision was established.

2. Virement Limits (Finance Rule 8b)

Limit	Approved By
Within CMT areas of responsibility to a maximum of £10,000.	CMT Mangers in consultation with the Chief Finance Officer
Transfers within or between CMT service areas to a maximum of £50,000.	Senior Leadership Team
Transfers within or between CMT service areas from £50,000 to £100,000.	Cabinet
Transfer above £100,000	Council

CONTRACT PROCEDURE RULES

1. **AUTHORITY AND APPLICATION**

1.1 These Contract Procedure Rules establish the legal framework applicable to the purchase of all goods & services or construction works by the Council. These Procedure Rules should be seen as setting minimum requirements and standards and apply to all Councillors and officers.

1.2 Where better value for the Council might be achieved by seeking more tenders or quotations this should be done.

1.3 These Contract Procedure Rules should be read and used in conjunction with the Procurement Guidance and must comply with the Procurement Act 2023 or any Act or Regulation that updates or replaces this Act.

1.4 In circumstances where there is a conflict between the Procurement Guidance and the Constitution, the Constitution will prevail. In those circumstances, the Monitoring Officer should be consulted to interpret the Constitution and confirm the relevant provisions of the Constitution that apply.

1.5 These Contract Procedure Rules are made pursuant to the Local Government Act 1972. Nothing in these Rules will prejudice the validity of any actions taken under any previous iteration.

1.6 A Council procurement can only be carried out if properly authorised. Part 3 of the Constitution sets out delegations to officers. If the procurement is outside these delegations, formal member-level authority must be obtained.

1.7 When appropriate authority has been given, procurement may be delegated in line with the scheme of delegation in Part 3. Delegated officers may then place orders within approved budgets and in line with these Contract Procedure Rules (the 'Rules').

1.8 The **Overriding Principles** below are the key principles to apply to any procurement and relevant contract.

1.9 A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials or services. A Relevant contract does not include:

1.9.1 A contract of employment which makes an individual a direct employee of the authority

1.9.2 An agreement regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply) or:

1.9.3 Payment of grants to third parties or the granting of security (to which the Financial Procedure Rules apply).

1.10 Councillors and officers who have an interest in a contract, or other procurement decision, under the Members Code of Conduct for Councillors or Employee Code of Conduct or under the general law, **must** comply with the relevant code and the law. The Codes are at Part 5 of the Constitution.

1.11 Where there is an interest which prevents participation, officers and Councillors **must** not take part in the tender process except to the extent permitted by the Head of Regulatory Law. Procedures relating to bribery, corruption and counter fraud are contained in relevant policies of the council.

2. **OVERRIDING PRICIPLES**

2.1 All procurement procedures must:

2.1.1 realise value for money by achieving the optimum combination of minimum whole life costs, and highest quality of outcome

2.1.2 achieve the highest standards of integrity

2.1.3 be followed in accordance with legal assistance and procurement expertise as directed by the Head of Regulatory Law.

2.1.4 operate transparently (subject to any requirement for confidentiality)

2.1.5 ensure fair and equal treatment of suppliers

2.1.6 comply with all legal requirements, Council priorities and policies

2.1.7 ensure that non-commercial considerations do not influence any contracting decision except in the case of principle 2.2 or on ethical grounds

2.2 In relation to each Procurement the Council must

2.2.1 consider how what is proposed to be procured may improve the economic, social and environmental well-being of the Borough and how the Council may act with a view to securing that improvement in conducting the process of procurement

2.2.2 where appropriate seek legally binding assurances that local labour will be used

- 2.2.3 ensure compliance by the supplier to relevant health and safety good practice and legislation in relation to the supplier's work force and business
 - 2.2.4 when there will be a TUPE transfer of Council staff take steps to ensure that those staff are expressly given the right to join and participate in a trade union
 - 2.2.5 consider whether to undertake any community consultation on the procurement proposals.
- 2.3 All contracts must be in writing as directed by the Head of Regulatory Law and entered into **prior to** the commencement of the undertaking or the delivery of the goods or the performance of the services.
 - 2.4 Clarification, interpretation and direction on the proper application of these principles to the Council's business shall be finally determined by the Head of Regulatory Law in writing within 2 days of a written request.

OFFICER RESPONSIBILITIES

- 2.5 Officers must comply with these Rules and must ensure compliance by any agents, consultants and contractual partners where they are procuring on the Council's behalf or the Council are funding the procurement in whole or in part.
- 2.6 Service Directors/Service Managers may delegate the task of complying with these Rules but not the responsibility for compliance. Failure to comply with any of the provisions of these Rules and/or the Council's Constitution insofar as it relates to contracts or failure to obtain and/or follow legal requirements may be brought to the attention of the Head of Regulatory Law or the Chief Executive. Non-compliance may be considered to be misconduct or an issue of competence and an investigation may be called for by the Head of Regulatory Law.

3. **WAIVERS**

- 3.1 Except where the Public Contracts Regulations 2015 apply and having regard to European law and subject always to legal comment from the Head of Regulatory Law a waiver may be granted to allow a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 8. A waiver can only ever be granted in advance and only ever in accordance with EU law. An application for a Waiver **must** be made by Service Directors/Service Managers in accordance with the Guidance and on the form prescribed by the Guidance. Every Waiver **must** be recorded on a master register to be maintained by the Head of Regulatory Law. A waiver may not be granted more than twice.
- 3.2 Waiver can only be granted for one or more of the following circumstances:-
 - 3.2.1 for works, supplies or services which are either patented or of such special character that it has not been possible to obtain competitive prices in spite of advertising
 - 3.2.2 the work to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing machinery or equipment, where such repairs or parts are specific to that machinery or equipment or upgrades to existing software packages
 - 3.2.3 the work or services to be executed or the goods or materials to be supplied constitute a valid extension of an existing contract provided that:
 - (a) the original contract was procured through a best value exercise
 - (b) the original contract permitted such an extension

- (c) there is budget approval for the extension in place
 - (d) the extension does not exceed the anticipated value of the original contract
- 3.2.4 the purchase is of supplies purchased or sold in a public market or auction
- 3.2.5 for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills
- 3.2.6 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Council to unacceptable risk
- 3.2.7 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement
- 3.2.8 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and **where the grant conditions allow this**
- 3.3 If works, supplies or services are urgently needed for the immediate protection of life or property or to maintain the immediate functioning of a public service for which the Council is responsible such that an exemption/variation is necessary two Service Directors/Service Managers or an Service Director/ Service Manager and a Council Solicitor may together approve the exemption on the basis of unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services. They **must** also prepare a written report for the Chief Executive and Head of Regulatory Law explaining these reasons within 7 days after granting the exemption.

4. **PARTNERING ARRANGEMENTS, JOINT PROCUREMENTS AND PROCUREMENT PAID FOR BY GRANT**

- 4.1 All partnering agreements and arrangements, collaboration projects and joint ventures with third parties (whether with private or publicly funded providers), must be subject to appropriate contractual arrangements approved by the Head of Regulatory Law.
- 4.2 Partnering arrangements are established for varying reasons and can take many different forms. It is important to ensure that the reasons for entering into a partnership are clear and remain under review. Appropriate accounting and audit arrangements must be put in place

and the Council's policy guidance on partnerships and work for outside bodies should be followed.

- 4.3 The Head of Regulatory Law **must** be consulted where purchases are proposed using arrangements with another local authority, government department, health authority, primary care trust, statutory undertaker or public service purchasing consortium.
- 4.4 Partners must formally acknowledge (in writing) and accept their respective roles and responsibilities within the partnership before the project commences and after assessing the risks and resources required to undertake the relevant tasks and roles.
- 4.5 Where any procurement exercise is undertaken for which European Regional Development Funds or other grant shall be claimed it is imperative that in addition to these Rules the conditions of grant relating to procurement of goods and services are followed. Where there is any conflict between these Rules and the rules or conditions imposed by the funding body, the stricter requirement **must** be followed.

5. **RECORDS**

- 5.1 The Public Contracts Regulations 2015 require contracting authorities to maintain the following comprehensive records of procurement activities which include:
 - 5.1.1 contract details including value and how the value is broken down and calculated
 - 5.1.2 selection decision
 - 5.1.3 justification for use of the selected procedure
 - 5.1.4 names of bidding organisations, both successful and unsuccessful
 - 5.1.5 reasons for selection, criteria, weighting and scores
 - 5.1.6 reasons for abandoning a procedure
- 5.2 The outcome of any competitive procurement process **must** be recorded in a report and be kept by the Procurement Unit.

6. **FRAMEWORK AGREEMENTS**

- 6.1 Framework agreements are agreements between the Council and three or more suppliers for the provision of goods, works or services on agreed terms for a specific period and for estimated quantities, against

which orders may be placed if and when required during the contract period. They enable the Council to contract (or “call-off”) from the range of goods, works or services set out in the framework.

- 6.2 Where framework agreements are on behalf of several organisations (including the Council, which must be specifically mentioned in the framework agreement or clearly identified), contracts may be made by the Council in one of two ways:

6.2.1 where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the framework agreement without reopening competition or

6.2.2 where the terms laid down in the framework agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following:

- (a) inviting the relevant organisations within the framework agreement to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract
- (b) awarding the contract to the bidder who has submitted the best bid on the basis of the relevant award criteria set out in the framework agreement.

7. **COMPETITION AND TENDERING**

- 7.1 Where the estimated total value for a purchase is within the values in the first column of the table below, as a minimum requirement , the procurement procedure in the second column **must** be followed.

Contracts for the supply of goods and services	
Up to £1,000	Quotations to be sought if deemed appropriate by the Service Director/Service Manager or their nominee
£1001 to £10,000	Quotations must be obtained from more than one supplier
£10,001 to £50,000	Three written competitive quotations must first be obtained (advertising is not mandatory but if advertised at all this must be on the government's Contracts Finder portal)
£50,000 to the EU threshold in force	The opportunity must be advertised on 'Contract Finder' and the procurement carried out in

(£214,904 inc VAT as at 1 January 2024) ⁷²	accordance with Part 4 of the Public Contract Regulations 2015.
Above the EU threshold	Comply with the Public Contracts Regulations in force
Contracts for Works	
Up to £1,000	Quotations to be sought if deemed appropriate by the Service Director/Service Manager or his nominee
£1001 to £100,000.00	Quotations must be obtained from more than one supplier (advertising is not mandatory but if advertised at all this must be Contracts Finder portal)
£100,001.00 to £450,000.00	Three written competitive quotations must first be obtained (advertising is not mandatory but if advertised at all this must be on the government's Contracts Finder portal)
£450,001.00 to the EU Threshold (£5,372,609 inc VAT as at 1 January 2022)	The opportunity must be advertised on 'Contract Finder' and the procurement carried out in accordance with Part 4 of the Public Contract Regulations 2015.
Above EU threshold	Comply with the Public Contracts Regulations in force

- 7.2 An officer must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of the Rules.
- 7.3 For procurement of less than £25,000 a local supplier should be used where appropriate. Where a local supplier is not used the reason must be recorded in writing except in the case of a contract for services, goods or works above £10,000 which is paid for with a grant whereupon the figure in this paragraph 8.3 shall be substituted for the figure of £10,000.
- 7.4 The Council will maintain information on the types of procurements and relevant contracts it is due to let on its website and information relevant to doing business with the Council. The Council will maintain a list of all contracts entered into over the value of £10,000.

8. **EVALUATION CRITERIA AND STANDARDS**

In any procurement the bid which is successful should offer the most economically advantageous balance between quality and price using a cost effectiveness approach such as life cycle costing in accordance with regulation 68 of the Public Contracts Regulations 2015, and may include the best price-quality ratio which shall be assessed on the basis of criteria permitted pursuant to the Public Contracts Regulations 2015 in so far as such regulations govern the relevant procurement.

8.1 Issues that are important to the Council in terms of meeting its corporate objectives must be used to evaluate bids. The criteria could include, for example

- sustainability considerations,
- support for the local economy,
- use of sub-contractors
- bidder's compliance with relevant health and safety legislation from time to time in force
- bidder's approaches to continuous improvement, setting targets for service improvement, or future savings.

All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

8.2 The procurement documentation should clearly explain to bidding organisations the basis of how the decision will be made, making clear how the evaluation criteria specified will be applied, the weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

8.3 Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract.

9. **INVITATION TO TENDER/REQUEST FOR QUOTATION**

9.1 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated. No tender delivered in contravention of this Rule 10 shall be considered.

9.2 Every Invitation to Tender shall include all of the following:

- 9.2.1 a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers

- 9.2.2 the terms and conditions of contract that will apply
- 9.2.3 a requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose)
- 9.2.4 a requirement for candidates to complete fully and sign or show acceptance of all tender documents including a form of tender and certificates relating to canvassing and non-collusion
- 9.2.5 a requirement for candidates to confirm that tenders submitted to the Council are compiled at the candidates own expense
- 9.2.6 a description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance
- 9.2.7 the method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa
- 9.3 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.
- 9.4 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information **must** be given on the same basis.

10. **SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**

- 10.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where the Public Contract Regulations 2015 apply the Regulations lay down specific minimum time periods for tenders.
- 10.2 Each tender must contain:
 - 10.2.1 an undertaking signed or acknowledged by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it

- 10.2.2 a statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent European Union or international standards offering guarantees of safety, reliability and fitness for purpose
- 10.2.3 a statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for and award of any works/services contract
- 10.2.4 a statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; nor shall the Council have to give reasons for the rejection of any tender and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.
- 10.3 In the unlikely event that 'hard copy' tenders are to be accepted these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Procurement Manager without any mark revealing the bidding organisation's identity.
- 10.4 All hard copy tenders will be held by the Council until the tender opening date/time has been reached. Receipt of each tender must be
 - 10.4.1 date stamped;
 - 10.4.2 initialled by the receiving officer; and
 - 10.4.3 logged immediately upon receipt in the tender register;
 - 10.4.4 in the event that hard copy quotations are to be accepted these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.

11. **CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS**

- 11.1 Providing clarification of an Invitation to Tender to potential or actual candidates or seeking clarification of a tender whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission.
- 11.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. Post tender negotiation must not be conducted in an OJEU procedure. Where post

tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

- 11.3 If post tender clarification is necessary after a single stage tender or after the second stage of a two stage tender, then such clarification shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Procurement Unit to carry out post tender negotiations should ensure that there are recorded minutes of all meetings and that both parties agree actions in writing.
- 11.4 Any post tender negotiation must only be conducted in accordance with guidance given by the Council's Procurement Unit.

The Council's Procurement Unit **must** be consulted:

- 11.4.1 wherever it is proposed to enter into post tender negotiation
- 11.4.2 about whether negotiation should be carried out with all tenderers.

12. **EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS**

- 12.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations.
- 12.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 12.3 The Procurement Unit must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 12.4 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as soon as reasonably possible.
- 12.5 Where procurement has been subject to the Public Contracts Regulations 2015, there must be a standstill period of 10 days before a contract can be awarded. This is to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award. will need to be included in the procurement timetable before the contract can be awarded and **must** be followed.

13. **NOMINATED SUB CONTRACTS**

13.1 The following provision shall have effect where the Council proposes to enter into a contract for the execution of work with a person ('the main contractor') but also proposes the main contractor nominates one or more sub-contractors or suppliers for the execution of work or the supply of goods, materials or services within the main contract.

13.2 Tenders for the sub-contract(s) shall be invited in accordance with the relevant provisions of Rule 9 under the direction of the Head of Regulatory Law and the Procurement Unit.

13.2.1 The terms of the invitation shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work or goods, materials or services in the sub-contract

13.2.2 The Service Director/Service Manager concerned or their authorised representative shall nominate to the main contractor a person whose tender is in their opinion most suitable. Provided that where the tender is other than the lowest received, the circumstances shall be reported appropriately.

14. **CONTRACT DOCUMENTS TO BE IN WRITING AND UNDER THE DIRECTION OF THE HEAD OF REGULATORY LAW OR PROPERTY, PROCUREMENT AND CONTRACT LAW MANAGER**

14.1 All contracts (whether bespoke or in an official purchase order format) must be in writing and must identify the terms and conditions that apply **before** the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Property, Procurement and Contract Law Manager.

14.2 Where a contract is placed by means of an award letter this must be supported by referring to: either standard terms and conditions or terms drafted under the direction of the Property, Procurement and Contract Law Manager.

14.3 A contract on a supplier's terms or negotiated terms must not be signed unless and until the Property, Procurement and Contract Law Manager has confirmed acceptance of the contract terms.

14.4 A contract entered into by or on behalf of the Council must: where the contract is to be the form of a deed, be made under the Council's seal and attested as required by the Constitution.

14.5 A contract must be executed as a Deed where:

- 14.5.1 the Council wishes to enforce the contract for more than six years after it ends
- 14.5.2 the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
- 14.5.3 there is any doubt about the authority of the person signing for the contracting party
- 14.5.4 the total value is expected to exceed £100,000
- 14.5.5 the Head of Regulatory Law or Property, Procurement and Contract Law Manager so directs.

However, paragraph 14.5 shall not apply:

- when the selected procurement route is by use of a framework agreement (see paragraph 7) AND
- the framework terms and conditions provide that documents are to be executed as a simple contract and not as a deed

14.6 Contract Formalities

CONTRACT VALUE	SIGNATORY/EXECUTION REQUIREMENTS
Over £100,000.00	The contract must be executed as a deed or subject to paragraph 14.4 and 14.5, if not executed as a deed, signed by: <ul style="list-style-type: none">• the Chief Executive OR• The Head of Regulatory Law and Monitoring Officer OR• two officers of the Council who are Solicitors or Chartered Legal Executives of five or more years standing*
£50,000.00 to £100,000.00	<ul style="list-style-type: none">• Signed by the Chief Executive OR• the Head of Regulatory Law and Monitoring Officer OR• an officer of the Council who is a Solicitor or Chartered Legal

	Executive of five or more years standing*
£25,000.00 to £50,000.00	<ul style="list-style-type: none"> Formalised by the issue of an award letter, signed by the Head of Procurement, and the subsequent issuing of a purchase order where the contract is for works or services <p>Or where appropriate on the advice of the Head of Procurement and / or the Property, Procurement and Contracts Manager, a contract signed by⁷³:</p> <ul style="list-style-type: none"> the Head of Regulatory Law and Monitoring Officer OR an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
< £25,000.00	Formalised by the issue of an award letter and the subsequent issuing of a purchase order where the contract is for works or services

* and authorised as signatories by the Head of Regulatory Law and Monitoring Officer

14.7 To ensure the integrity of the procurement process, to manage risk and for the avoidance of doubt where the following applies contracts and the negotiation of them shall be directed and approved by the Property, Procurement and Contract Law Manager:

- 14.7.1 all proposed Invitations to Tender, where they are not in compliance with the Council's standard contract documentation
- 14.7.2 any proposed Invitations to Tender which are subject to the Public Contracts Regulations 2015, or which are deemed to be of high risk or politically sensitive in nature
- 14.7.3 any proposed contract where there is any deviation from the contract terms included in the invitation to tender
- 14.7.4 where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

15. **ACCEPTANCE OF OFFER OF A GRANT**

- 15.1 In Part 3 there are specific general delegations to officers and Cabinet Members for acceptance of grants offered to the Council.

16. **REVIEW AND AMENDMENT OF THESE RULES**

These Rules shall be reviewed and updated on an annual basis as part of the annual review of the Constitution.

EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT - ALL EMPLOYEES

Recruitment and Appointment of all Council employees must be in accordance with the detailed rules contained in the Recruitment and Selection Handbook from time to time approved by the Council, except where inconsistent with any of these Procedure Rules.

1.1 Appointment on Merit

Every appointment of a person to any paid office or employment shall be made on merit, subject to the exceptions listed in section 7 of the Local Government and Housing Act 1989.⁷⁴

1.2 Job Descriptions and Person Specifications⁷⁵

For all proposed appointments⁷⁶ (whether made from existing employees or otherwise) there shall be a written job description and person specification specifying:

- The duties of the employee concerned; and
- Any qualifications or qualities to be sought in the person to be appointed.

1.3 Advertisement and Sending Job Descriptions etc. to Applicants

The post shall then be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it. A copy of the job description and person specification shall be sent to any person on request, with a copy of the Council's approved application form, including its equal opportunities monitoring form. All candidates⁷⁷ must complete the Council's application form, with assistance appropriate to any disability.

1.4 Declarations - Relationships to Councillors or Senior Officers (and receipt of pension/severance benefits).

1.4.1 The Council's application form will contain a statement requiring any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the Council; or of the partner of such persons.⁷⁸

1.4.2 No candidate so related to a councillor or senior officer will be appointed without the authority of the officer or body responsible for making the appointment.⁷⁹ Where any officer is responsible for making the appointment and is related to the candidate, the appointment will be subject to the approval of the Head of Paid

Service, and where the Head of Paid Service is responsible for making the appointment and is related to the candidate, the appointment will be subject to the approval of the Monitoring Officer.

- 1.4.3 The officer or body responsible for making the appointment shall establish whether the applicant has previously worked for the Council and whether the applicant is in receipt of any form of severance or occupational pension from his or her former employment.⁸⁰

1.5 Seeking support for appointment⁸¹

- 1.5.1 the Council will disqualify any applicant who directly or indirectly canvasses or seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 1.5.2 no councillor will seek support for any person for any appointment with the Council (including giving a written reference for a candidate)

1.6 SHORTLISTING AND INTERVIEWING⁸²

The body or officer responsible for the appointment will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list. Where no qualified person has applied, the officer or body may make further arrangements for advertisement in accordance with these procedure rules.

1.7 ASSISTANTS FOR POLITICAL GROUPS

The rules in paragraphs 1.2 to 1.6 above shall not apply to the appointment of assistants to Political Groups in accordance with Section 9 of the Local Government and Housing Act 1989 ⁸³

2. APPOINTMENT OF HEAD OF PAID SERVICE ⁸⁴

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the Council. That committee must be politically balanced and include at least one member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 to these Rules has been completed.⁸⁵

3. **APPOINTMENT OF EXECUTIVE DIRECTORS AND SERVICE DIRECTORS**⁸⁶

- (a) A committee [or sub-committee] of the Council will appoint the Executive Directors and such Service Directors as the Council may from time to time designate. That committee [or sub-committee] must be politically balanced and include at least one member of the Cabinet.
- (b) An offer of employment as Executive Director or Service Director shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

4. **OTHER APPOINTMENTS**

- (a) **Officers below Service Director level.** Appointment of officers below Service Director level (other than assistants to political groups) is the responsibility of the Head of the Paid Service or an officer nominated by him/her as set out in Part 3 of this Constitution, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

5. **DISCIPLINARY ACTION**⁸⁷

(a) **Procedure**⁸⁸

- (i) In the following paragraphs:

“the 2011 Act” means the Localism Act 2011;

“chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders)(England) Regulations 2001;

“independent person” means a person appointed under section 28(7) of the 2011 Act;

“local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

“the Panel” means a committee, known as the Statutory Officers Disciplinary Panel, appointed by the

authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

- (ii) A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- (iii) The Council must convene the Statutory Officers Disciplinary Panel which shall comprise at least three members drawn from the members of Employment and General Committee and/or Appeals and Regulatory Committee and shall be politically balanced.
- (iv) The Council must also invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (v) In paragraph (iv), “relevant Independent Person” means any Independent Person who has been appointed in accordance with Section 28(7) of the Localism Act 2011.
- (vi) The Council must appoint to the Panel at least two such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (iii) in accordance with the following priority order:
 - (a) a relevant Independent Person who has been appointed by the Council and who lives within the Council’s area
 - (b) any other relevant Independent Person who has been appointed by the Council but lives outside the authority’s area
 - (c) a relevant Independent Person who has been appointed by another authority or authorities

- (vii) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (viii) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal (which decision must be made by the Council itself), the Council must take into account, in particular:
 - any advice, views or recommendations of the Panel;
 - the conclusions of any investigations into the proposed dismissal; and
 - any representations from the officer subject to the disciplinary proceedings.
- (b) The suspension of the officer on full pay for the purpose of investigating the alleged misconduct suspension must terminate no later than the expiry of 2 months beginning on the day on which the suspension takes effect, unless the Statutory Officers Disciplinary Panel directs that it may continue beyond that period.
- (c) Councillors will not be involved in the disciplinary action against any officer below Service Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to the Appeals and Regulatory Committee in respect of disciplinary action.

6. DISMISSAL

- (a) Councillors will not be involved in the dismissal of any officer below Service Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to the Appeals and Regulatory Committee in respect of dismissals.
- (b) Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of or in relation to, the dismissal of the Head of Paid Service, an Executive Director or an Service Director, that committee or sub-committee must include at least one member of the Cabinet.
- (c) Where a committee or sub-committee is discharging the function in relation to the dismissal of the Head of Paid Service, the full Council must approve any recommendation of dismissal before notice of dismissal is given.

- (d) Notice of dismissal of the Head of Paid Service, an Executive Director or an Service Director must not be given until the procedure set out in **Annex 2** has been completed.

7. DEFINITIONS

Section 2 of the Local Government and Housing Act 1989 defines "Chief Officers" to include "statutory chief officers" and "non-statutory chief officers"

Statutory chief officers⁸⁹

In this section "the statutory chief officers" means -

- (a) *(relates to county functions - chief education officer)*
- (b) *(relates to county functions - the chief officer of a fire brigade);*
- (c) *((relates to county functions - the director of social services)*
- (d) *the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, for the administration of the authority's financial affairs (Chief Financial Officer)*

Non- statutory Chief Officers

"non-statutory chief officer" means, subject to the following provisions of this section -

- (a) *a person for whom the head of the authority's paid service is directly responsible;*
- (b) *a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and*
- (c) *any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority*

"Deputy Chief Officer" has the same meaning as in section 2 of the 1989 Act. which says:

Deputy Chief Officers

"deputy chief officer" means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.

In these procedure rules the Executive Director falls within the statutory definition of "non-statutory chief officers" and Service Directors fall within the statutory definition of "deputy chief officers".

ANNEX 1

APPOINTMENT OF HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS AND SERVICE DIRECTORS

1. This procedure applies to the appointment of the Head of Paid Service, Executive Directors and Service Directors ("relevant officers") and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, "appointor" means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the Council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until -
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Cabinet of -
 - (i) the name of the person to whom the appointor wishes to make the offer
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the Cabinet to the proper officer; and
 - (c) either -
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any member of the Cabinet has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4. The "proper officer" for the purposes of paragraph 3 is the Monitoring Officer - see Appendix 4, Part 3 of this constitution for proper officers).

ANNEX 2

DISMISSAL OF HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS AND SERVICE MANAGERS

1. This procedure applies to the dismissal of the Head of Paid Service, Executive Directors and Service Directors ("relevant officers") and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, "dismissor" means, in relation to the dismissal of a relevant officer, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until -
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of -
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the Cabinet to the proper officer; and
 - (c) either -
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
 - (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4. The "proper officer" for the purposes of paragraph 3 is the Monitoring Officer - see Appendix 4, Part 3 of this constitution for proper officers).

END OF PART FOUR

NOTES

¹ "person presiding": Normally this will be the chairman elected the previous year who, if present at a meeting of the council, must preside (Sched. 12, para. 5). If he is not present the vice-chairman of the council must preside. If neither are present another member of the council chosen by the members will preside.

² Section 15 of the 1989 act says.—(1) *It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—...*(b) *where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;*

³ 1989 act s.15(4)... *it shall be the duty of a relevant authority ... (a) in performing their duty under subsection (3) above; ... to determine the allocation to different political groups of seats on a body to which this section applies,*

⁴ These "other committees" are not detailed because they are a matter of choice for the Council, which may from year to year change the number or description of the committees it wishes to appoint. But the Standards and Audit Committee and Scrutiny Panels **are** mentioned here because the Council must appoint these by law.

⁵ 1989 Act s.16(1) *Where any relevant authority... have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority... so to exercise their power to make appointments to that body as to give effect... as soon as practicable after the determination... to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.*

⁶ Knowles on Local Authority Meetings 3rd Ed p.299: *It is for the local authority to decide whether committee chairmen shall be appointed by the full assembly or elected by the committee itself.*

⁷ The annual meeting must be held between 8 and 21 days after the retirement of councillors in an election year, and in March to May in other years – schedule 12 Local Government Act 1972.

⁸ "person presiding": Normally this will be the chairman elected the previous year who, if present at a meeting of the council, must preside (Sched. 12, para. 5). If he is not present the vice-chairman of the council must preside. If neither are present another member of the council chosen by the members will preside.

⁹ Note LGA 1972 s. 3(1A): *A member of the executive of a principal council may not be elected as the chairman of the council.*

¹⁰ Note LGA 1972 s. 5(1A) *A member of the executive of a principal council may not be appointed as the vice-chairman of the council.] -*

¹¹ S.4 LGA 1972: —(1) *The election of the chairman shall be the first business transacted at the annual meeting of a principal council.*

(2) If, apart from section 3(3) above or section 5(2) below, the person presiding at the meeting would have ceased to be a member of the council, he shall not be entitled to vote in the election except in accordance with subsection (3) below.

(3) In the case of an equality of votes the person presiding at the meeting shall give a casting vote in addition to any other vote he may have.

Where the chairman has retired as a councillor he is not entitled to vote in the election of a new chairman unless there is an equality of votes in which case he is required by subs. (3) to give a casting vote.

¹² As a matter of Local Choice the executive arrangements give the Cabinet the power to appoint to outside bodies apart from joint committees – see Part 3 Leader's portfolio R130 - *In connection with both executive and non-executive functions, the appointment of any individual - to any office other than an office in which he is employed by the authority; to any body other than -*

(i) the authority;

(ii) a joint committee of two or more authorities;

to any committee or sub-committee of such a body,

and the revocation of any such appointment (LOCAL CHOICE EXECUTIVE FUNCTION)

¹³ A "Political Group" has the same meaning as in the Local Government (Committees and Political Groups) Regulations 1990. It means two or more councillors who have given written notice of their wish to be treated as a political group, in accordance with those Regulations.

¹⁴ Appointment of committees is a non-delegable function of the full Council to the extent established by case law, which is uncertain with respect to the appointment of committees and sub-committees. *R v Brent LBC ex p. Gladbaum and Wood*, The Times 14.12.1989 established that only the full Council could appoint and remove members from committees. The case also said that sub-committees could only be appointed by committees (not directly by the full council). Where the full Council appoints sub-committees, the parent committee should at least confirm the appointments.

¹⁵ Two separate rules apply to notices of council meetings:

LGA 1972 Sched. 12 Part 1 para 4(2) *Three clear days at least before a meeting of a principal council—(a) notice of the time and place of the intended meeting shall be published at the council's offices, and where the meeting is called by members of the council the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and (b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the proper officer of the council, shall, subject to sub-paragraph (3) below, be left at or sent by post to the usual place of residence of every member of the council.*

LGA 1972 s. 100A(6)(a): *The following provisions shall apply in relation to a meeting of a principal council, that is to say—(a) a public notice of the time and place of the meeting shall be given by posting it at the offices of the council three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;*

Presumably the second rule (allowing a shorter notice than 3 days to be given) is overridden by the first rule which stipulates 3 clear days at least, with no option for a shorter period of notice.

Also, from 1/10/02 the 3 clear days in the second rule is to become 5 clear days by an amendment of s100A which is made by the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002. However those regulations do not amend the first rule in Schedule 12. After 1/10/02, the overall effect seems to be that 5 clear days must be given unless the meeting is convened at shorter notice, in which case 3 clear days notice (and no less) must be given for a council meeting.

¹⁶ "Clear days" means **working weekdays**, so Saturdays, Sundays, and statutory and non-statutory holidays do not count. The day on which a decision is made is also excluded in counting the 3 day period. The time is calculated in the same way as for the Access to Information Act.

¹⁷ LGA 1972 Schedule 12 Part 1 paragraph 5(4) *A member of an executive of a principal council may not be chosen to preside under sub-paragraph (3) above.*

¹⁸ Mandatory Standing Order under the Local Authorities (Standing Orders Regulation 1993).

¹⁹ This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993

²⁰ Under Common Law a councillor is present by right of his office and cannot be excluded from a local authority meeting under common law. However the Chair has a common law duty to keep order. If a member persists after warning, the Chair should seek a resolution to adjourn or suspend the meeting. If the Chair can't get a resolution, the Chair has an inherent common law power as chair to **suspend or adjourn** the meeting, but the adjournment must be for no longer than is necessary to restore order (*John v Rees* 1969).

²¹ This is not a common law power but a rule approved by the council for the conduct of meetings, so there is a requirement for the Chair to get the meeting's agreement to this course of action.

²² ARTICLE 10 EUROPEAN CONVENTION OF HUMAN RIGHTS: says *Everyone has the right to freedom of expression, to hold opinions and impart information and ideas without interference by public authority and regardless of frontiers. But lawful restrictions may be imposed in the interests of national security or public safety, prevention of disorder or crime, protection of health or morals, protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.* The restrictions in this standing order may be in the interests of the prevention of disorder.

²³ The common law

²⁴ This was said to be a common law power in *R. v. Brent Health Authority, ex p. Francis and another* [1985] Q.B. 8. That case was decided under the 1960 Admission to Meetings Act, and it may also apply to Council and Committee meetings. The basis was that the common law power to exclude the public (see existing disorder above) *did not only have the meaning of excluding people already at a meeting but also its primary meaning of preventing people coming at all. When Parliament passed the Act of 1960 it assumed that if members of the public were admitted they would behave*

themselves. The purpose for which they were admitted was to enable them to inform themselves of what was going on, not to participate. The habit of members of the public getting their supporters to shout down arguments which they did not wish to hear had become too prevalent and there was a common law power to exclude the public in extreme circumstances of this kind.

²⁵ *R v Swansea BC ex p Elitestone Ltd* confirmed that there need be no more than 2 members in law to constitute a committee or subcommittee.

²⁶ *Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his vote for the question or against the question or whether he abstained from voting. In this paragraph "relevant body" means the authority, a committee or sub-committee of the authority or a relevant joint committee or sub-committee of such a committee.*

²⁷ See Part 4 Article 16 of this Constitution

²⁸ See Part 2 Article 16 of this Constitution: *The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council..*

²⁹ *Where the principle purpose is for an officer to brief executive members (or an executive decision maker)-to clarify an issue - there is no "meeting" for the purpose of regulation 7 (key decisions to be taken in public), so the "meeting" can be in private.* Guidance 7.35 and 7.36.

³⁰ LGA 1972 Schedule 12 Part 1 paragraph 4(2)- see footnote in Council Procedure Rules

³¹ See Article 9 for additional requirements on notification of meetings in parishes for Standards and Audit Committee meetings.

³² LGA 1972 Section 110B(4)(b) - Access to Information Act

³³ LGA 1972 Schedule 12 Part 1 paragraph 4(5).

³⁴ **Reports** open to inspection are those which are not withheld by reason of the proper officer's decision as to likely disclosure to the public of exempt or confidential information. Also **agenda and reports** relating to items for a meeting of the Cabinet which has been decided to be held in private under section 22 of the 2000 act are not open to public inspection.

³⁵ This includes meetings of the Cabinet which are decided to be held in private under section 22 of the 2000 act - records of decisions of these meetings must still be open for inspection after the meeting.

³⁶ This is required under the Access to Information Act but not specifically required under the Regulations for executive arrangements. This rule makes clear that the requirement applies to cabinet decisions.

³⁷ Regulation 5

³⁸ Reg. 21

³⁹ These rules in 8.1 and 8.2 apply to meetings which the Cabinet has decided to hold in private under section 22 of the 2000 act, as well as to public meetings of the Cabinet and to Council Committee meetings.

⁴⁰ S100A(3) LGA 1972 "prohibited by or under any enactment" could include for example personal data under the Data Protection Act. A list of enactments prohibiting the disclosure of official information is at Appendix B of "Government and Information", Birkinshaw 2nd ed. 2001.

⁴¹ Part 2 of the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁴² This function of the proper officer is not laid down by law but is added by choice to provide a procedure for confidential information. However it would be open to the committee or cabinet at the meeting to take the view that the obligation of confidence would not be apply so that the public could remain in the meeting.

⁴³ **The Access to Information Act, which allows the Chair of a committee to take urgent items which have not been put on the agenda, does not apply to Cabinet meetings – There is no equivalent of the Chair's urgency power for the Cabinet, whether for key or for non-key decisions. Also the Cabinet urgency rules 15 and 16 apply only to key decisions – there is no equivalent for non-key decisions.**

⁴⁴ *Where the principle purpose is for an officer to brief executive members (or an executive decision maker)-to clarify an issue - there is no "meeting" for the purpose of regulation 7 (key decisions to be taken in public), so the "meeting" can be in private.* Guidance 7.35 says the executive will need time to think the unthinkable out of the public glare. It also allows the executive to have a political debate without officers present provided that a key decision is not decided at that "meeting." 7.36 A meeting under regulations 7(1)(b) and 7(1)(c) does not include a meeting which is convened by members of the executive for the sole purpose for being briefed on a particular issue by an officer. Thus, for

example, where one or more members of the executive meet with an officer merely to seek clarification of a particular matter, that meeting need not be in public. It does, however apply to all formal meetings of an executive decision-making body. Regulation 7(1)(a) makes clear that any key decision to be taken by the executive or a committee of the executive must (subject to the usual rules on exempt and confidential information) be taken in a public meeting.

⁴⁵ Regulation 9(3).

⁴⁶ Regulation 18 of the 2012 regulations - *reports to the local authority where the key decision procedure is not followed*.

⁴⁷ This delegation to the proper officer is NOT required by the 2000 regulations, but is recommended by the model constitutions - see list of proper officers in Part 3.

⁴⁸ Reg. 20

⁴⁹ Regulation 12(2)(e) of the 2012 Regulations. The reference to conflicts of interest in the 2012 Regulations appears to go wider than disclosable pecuniary interests under the Code of Conduct and includes actual conflicts at common law.

⁵⁰ Section 22 of the LGA 2000 says - (1) *Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.* (2) *Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.* Guidance 7.38 says *However, in considering whether or not to hold a meeting in public above and beyond the statutory requirements, a local authority executive should have regard to the underlying principles of efficiency, transparency and accountability and to the approach for decision-making described above (key decision procedure)*

⁵¹ In Rule 20 and 21 "Private Meeting" means one which the Cabinet (or Cabinet committee) has decided to hold in private under section 22 of the Local Government Act 2000. "Private Meeting" in Rules 20 and 21 does not refer to decisions taken by members under regulation 7 of the 2000 regulations (briefings by officers etc.), which are not "meetings" under the regulations.

⁵² This is not a statutory requirement, but the model constitutions recommend that *scrutiny members have "foresight" of papers relating to private executive meetings (page 133, para.23.1).*

⁵³ An alternative provision in the model is (b) *Where a matter under consideration at a private meeting of the Cabinet, or a committee of it, is within the remit of a Scrutiny Panel/ sub-committee, the Chair of that Committee or in his/her absence the Vice-Chair may attend that private meeting with the consent of the person presiding, and speak (though not speak unless those present agree).*

⁵⁴ Reg 20 (3): *Where a member of a local authority executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these regulations (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the documents contain confidential information; or (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political advisor or assistant.* See also Reg 20(1) and (2).

⁵⁵ Regulation 13(2)(e) of the 2012 Regulations. The reference to conflicts of interest in the 2012 Regulations appears to go wider than disclosable pecuniary interests under the Code of Conduct and includes actual conflicts at common law.

⁵⁶ Private meetings means meetings which the Cabinet has decided to hold in private under the 2000 act – it does not mean items taken in private (exempt or confidential items) at public meetings of the Cabinet.

⁵⁷ Paragraph 16 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

⁵⁸ I.e. a meeting which the cabinet has decided not to hold in private under s. 22 of the 2000 act or a meeting which must be held in public because it will consider or take a key decision.

⁵⁹ S. 100F LGA 1972 as amended by the Orders noted above

⁶⁰ For Guidance on applying "the public interest test" see the Awareness Guide on the Information Commissioner's website

⁶¹ "financial or business affairs" includes contemplated, as well as past or current, activities

⁶² "labour relations matter" means—(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or (b) any dispute about a matter falling within paragraph (a) above.

⁶³ "person presiding" means the person actually presiding, or the person nominated to preside, at that meeting.

⁶⁴ Duplication of this duty may be because of the need to take account of the executive not accepting the proper officer's view of the likelihood of an item being taken in private.

⁶⁵ The 1985 Act originally required only a **separate list** of background papers, with a copy of each paper, to be available. The 2000 Act amended this, to bring it into line with the 2000 Regs. to require each **report to contain a list of the background papers appropriate to that report**, again with a copy of each paper.

⁶⁶ This requirement is not duplicated (as it is for meetings) – presumably because with individual member decision making, there is no possibility of a meeting changing the status of a report from private to public – compare r.6 as it applies both to r. 5 and to r.11.

⁶⁷ This is not the forward plan itself, but the general notice to the public which must be published annually, telling them that the forward plan will be published, with a general description of its form, contents, purpose and future availability.

⁶⁸— *see schedule 1 to the Local Government Act 2000: Procedure* . Executive arrangements by a local authority may include provision with respect to-

- (a) the quorum, proceedings and location of meetings of the executive,
- (b) the appointment of committees of the executive, and
- (c) the quorum, proceedings and location of meetings of committees of the executive.

⁶⁹ The cabinet could decide to hold all meetings in public under s.22 LGA 2000.

⁷⁰ Apart from the Council in its executive arrangements, Only the Leader (and not the Deputy Leader) has the statutory power to delegate functions to Executive Members

^{lxxi} **head of Internal Audit** shall be read as references to the Internal Audit Consortium Manager, being an Officer of Chesterfield Borough Council acting within arrangements set out in an agreement for a shared internal audit service

⁷² The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023 came into force on 1 January 2024

⁷³ *Standards and Audit Committee 12/07/23*

⁷⁴ This paragraph states the existing law as follows:

7.(1) Every appointment of a person to a paid office or employment under a local authority...shall be made on merit.

(2) Subsection (1) above applies to all appointments made by, or by any committee of, a local authority..., whether made under section 112 of the Local Government Act 1972 (appointment of staff) or otherwise, but has effect subject to—

(a)....

(b) section 18 of the Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);

(c) section 7 of the Sex Discrimination Act 1975 (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);

(d) section 5 of the Race Relations Act 1976 (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification);

(e) section 113 of the Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities); and

[(f) sections 5 and 6 of the Disability Discrimination Act 1995 (meaning of discrimination and duty to make adjustments).]

The section does not apply to existing staff within their present posts; however it probably applies to the appointment to a new post of existing staff, but possibly not to re-grading of an existing post.

⁷⁵ This wording follows the mandatory standing orders required by the 1993 Regulations (Part 1 of Schedule 1. Those regulations require wording to this effect only for chief officer appointments, but in view of this council's open recruitment policies, the wording is proposed to be applied to appointments of all employees as a matter of local choice. The mandatory standing orders (1993) say:

1. Where the authority propose to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993), and it is not proposed that the appointment be made exclusively from among their existing officers, they shall—

(a) draw up a statement specifying—

(i) the duties of the officer concerned, and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

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- (c) *make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.*

The reference to the Council's approved application form (including equal opportunities monitoring form) has been added as a matter of local choice.

⁷⁶ It is assumed that this and other recruitment rules which follow would not apply to the temporary promotion of an officer for example as an "acting" service manager, pending a permanent "appointment".

⁷⁷ This probably means all candidates for permanent or temporary posts as direct employees of the council. However the position on AGENCY employees and "pool" employees (casual labour) needs to be clarified here. Also this rule may not apply to self-employed "consultants" who are contractors rather than employees. The question of council sponsored training schemes (status of trainees as council employees or not) also arises.

⁷⁸ This rule is not required by law. It derives from model standing orders recommended by the government in 1963, and follows the rule contained in this council's former standing order no. 34. The Council's current application form requires disclosure of "any relationship" with a member or senior officer, but does not list the definition of relationships. The list of relationships in Standing Order No. 34 has been extended (following the government's model constitution) to include "partner", stepchild and other relationships.

Standing Order 34 goes on to say that anyone failing to disclose such a relationship (if they know it exists) will be disqualified from appointment, and that if they have been appointed when the matter comes to light, they may be liable to dismissal. This latter rule is NOT in the government's model constitution. The rule is not included here as an employment procedure as it is more suitable to be included in the employees' code of conduct.

⁷⁹ This is the wording from the model constitution.

⁸⁰ See S.I. 1983 1160

⁸¹ These rules are not specifically required by law. These rules derive from model standing orders recommended by the government in 1963, and follow the rules contained in this council's existing standing order no. 34. Rules 1.5.1 and 1.5.2 are consistent with the law on appointment on merit (see above).

⁸² This wording below follows the mandatory standing orders required by the 1993 Regulations (Part 1 of Schedule 1 - see Appendix 2), and follows the wording in the Council's former Standing order No. 31. Those regulations require wording to this effect only for chief officer appointments, but in view of this council's open recruitment policies, the wording is proposed to be applied to appointments of all employees as a matter of local choice. The mandatory standing orders (1993) say:

*2.—(1) Where a post has been advertised as provided in standing order 1(b), the authority shall—
(a) interview all qualified applicants for the post, or (b) select a short list of such qualified applicants and interview those included on the short list.*

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 1(b).

⁸³ This section is a limited power to make appointments which are not subject to the political restrictions of ss.1 and 2 of the 1989 act. The aim is to permit an appointment based on political sympathy or affiliation, although subject to this, the appointment must still be made "on merit" within s.7, i.e. if there are two candidates of equal political "attractiveness," the more able to perform the rôle must be appointed. The 1993 regulations allow the mandatory rules on open advertising, shortlisting and interviewing to be disapplied to these posts.

⁸⁴ Approval of the full Council (not delegable) required by the Local Authorities (Standing Orders) (England) Regulations 2001.

⁸⁵ Procedure required by the Local Authorities (Standing Orders) (England) Regulations 2001.

⁸⁶ "Service Directorss" are Deputy Chief Officers as defined in the 1989 act

⁸⁷ "Disciplinary Action is defined by the Standing Orders Regulations 2000 as follows: *"disciplinary action" in relation to a member of staff of a local authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;*

⁸⁸ Inserted pursuant to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, procedure approved by full council meeting on 22nd July 2015

⁸⁹ Note - this definition does not include the Head of Paid Service or Monitoring Officer.