

### COUNCIL PROCEDURE RULES

#### 1. GENERAL PROVISIONS AND INTERPRETATION

For the purpose of this Constitution, Rules and any Scheme of Delegation:-

- 1.1 Any reference to any legislation shall be deemed to include a reference to any statute incorporated therewith or any statutory instrument or Byelaws made thereunder and any enactment repealing, amending or extending the provisions thereof.
- 1.2 The power to appoint employees shall include (inter alia) the powers to dismiss, to discipline, to promote, to transfer, or to exercise any other personnel function.
- 1.3 Any references to “Shropshire” shall be deemed to be restricted to that area outside the Telford and Wrekin Council save where the context otherwise requires.
- 1.4 Any reference in this Constitution or in any relevant legislation (whether primary or secondary) to the “Head of Paid Service” shall (except where the content otherwise requires) mean the Chief Executive.
- 1.5 “The Proper Officer” shall refer generally to the Chief Executive or any other person that he/she nominates. Each Director, statutory officer or any other person so nominated within the Scheme of Delegations in Part 8 of this Constitution shall also be the “Proper Officer” for the purposes of the legislation relating to their service areas.
- 1.6 “Leader” and “Member of the Cabinet” shall have the meanings given to “Senior Executive Member” and “Member of the Executive” by section 9E and Schedule A1 of the Local Government Act 2000.
- 1.7 “E-mail” shall mean any communication by means of computer.
- 1.8 “Written notice” shall include a communication by computer.
- 1.9 “Agenda papers” shall include the agenda and any papers supplied in association with the agenda.
- 1.10 For the purposes of any proceedings brought before a court or tribunal, any provision in this Constitution or in any Scheme of Delegations requiring prior consultation with any Member or officer of the Council shall be deemed to have been complied with.
- 1.11 The term ‘Decisions List’ means a list of decisions of Cabinet, Portfolio Holders or Committees (other than Regulatory Committees) and those key decisions taken by officers under delegated powers and which is kept available for public inspection by the Monitoring Officer.

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- 1.12 'Call in' means a request by a member of Council that a decision which has been published on the Decisions List be referred to a Scrutiny Committee for further consideration.
- 1.13 'Group Call in' means a request by a Group Leader (or a person authorised by them) to call in on behalf of all members of the Group a decision which has been published on the Decisions List and such a request shall be treated as if individual call in requests had been received from each and every member of that Group, a minimum of 12 members shall still apply.
- 1.14 The term "Clear Working Days" shall exclude the day on which the notice is received and Saturdays, Sundays or other days when the Council's offices are closed, and the day of the meeting itself.
- 1.15 The business of the Council (at whatever level it is conducted) shall be subject to any relevant statutory provisions and principles of common law whether or not they are set out or referred to in this Constitution or any Scheme of Delegations.
- 1.16 Except where the context otherwise requires, the term 'Committee' throughout this Constitution shall include any committee, panel, forum or ad hoc committee but shall not include informal working parties, site visits or other meetings which would not constitute a committee or sub-committee within the meaning of the Local Government Acts 1972 and 2000.

## 2. ANNUAL MEETING OF THE COUNCIL

### 2.1 Timing of the Annual Meeting

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

### 2.2 Business at the Annual Meeting

The Business at the Annual Meeting will be to:-

- (i) elect a person to preside if the Chairman or Vice Chairman is not present;
- (ii) elect the Chairman, such person to continue in office until immediately before the election of the Chairman at the next annual meeting unless he/she resigns (NB The Chairman shall be eligible for reelection)
- (iii) elect the Vice Chairman of Council, such person to continue in office until immediately after the election of the Chairman at the next annual meeting unless he/she resigns. (NB The Vice Chairman shall be eligible for reelection);
- (iv) approve the minutes of the last meeting;

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- (v) receive any announcements from the Chairman and/or Head of the Paid Service;
- (vi) elect the Leader (NB The Leader will be a Councillor elected for a term of four years to the position of Leader by the Council. See Part 2 - Article 7 - 7.3 Leader and Deputy Leader);
- (vii) appoint at least one Overview and Scrutiny Committee (the Council may decide that Overview and Scrutiny Committees should not be politically balanced, but this can only be adopted where no Member present votes against), a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions (as set out in Part 3 of this Constitution);
- (viii) approve a programme of ordinary meetings of the Council for the year; and
- (ix) consider any business set out in the notice convening the meeting.

### 2.3 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will:

- (i) without prejudice to the powers of the Council to vary the Committee structure and Delegations, appoint the Committees or Panels with the powers referred to in Part 3 'Council Functions'.
- (ii) decide the size and terms of reference for those Committees;
- (iii) receive nominations of councillors to serve on each Committee and outside body; and
- (iv) appoint Councillors to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.
- (v) The Leader of the Council will approve appointments to outside bodies in the period between Annual Meetings of the Council regardless of how they occur and shall inform the Chief Executive accordingly. All Group Leaders will be informed of such appointments by email.

### 2.4 Appeal Panels

The Chief Executive shall from time to time establish such Appeal Panels as may be required, to be constituted as the Chief Executive shall determine subject only to any legal requirements attaching thereto. Membership of such Panels shall not be subject to political balance.

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### **2.5 Compliance with the Political Balance Rules**

- (i) When appointing Committees, the Council shall determine the overall number of seats on each Committee or List and allocate numbers of seats to political groups and to independent members in accordance with the Local Government and Housing Act 1989 and shall keep the same under review in accordance with that Act.
- (ii) A political group may by notice to the Chief Executive require a change in the appointment of a Member or substitute Member to a seat allocated to that political group with immediate effect. The change will then be reported at the next Council meeting.

### **3. ORDINARY MEETINGS**

#### **3.1 Timing of Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting, and subject thereto as fixed by the Chairman.

#### **3.2 Business at Ordinary Meetings**

The Business at Ordinary Meetings will be to:-

- (i) elect a person to preside if the Chairman or Vice Chairman are not present;
- (ii) deal with any business required by statute to be done before any other business of the Council;
- (iii) approve the minutes of the last meeting;
- (iv) receive any declarations of interest from Members;
- (v) receive any announcements from the Chairman, the Vice Chairman, Leader or Head of Paid Service;
- (vi) receive questions and provide answers to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vii) receive petitions from the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions;
- (viii) deal with any business expressly required by statute to be done;
- (ix) deal with any business left outstanding from the last Council meeting;
- (x) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;

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- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committees for debate;
- (xii) deal with reports in relation to reviewing the functions of the Cabinet and Scrutiny in accordance with the protocol set out in Part 5.
- (xiii) consider motions;
- (xiv) receive reports about, and receive questions and answers on the business of joint arrangements and external organisations, and in particular the Shropshire and Wrekin Fire Authority.
- (xv) receive questions from Members

### 4. EXTRAORDINARY MEETINGS

#### 4.1 Calling Extraordinary Meetings

Those listed below may request the Proper Officer to call Council meetings in addition to Ordinary Meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council (or the Vice Chairman if the office of Chairman is vacant, or the Chairman is not available); or
- (iii) the Monitoring Officer; or
- (iv) Subject to the matter contained in the notice being the responsibility of the Council and not delegated under Part 3 of the Constitution, any eight members of the Council if they have signed a requisition specifying the nature of business and presented to the Chairman of the Council or the Vice Chairman under Rule 4.1(ii) above and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- (v) The Chief Executive may, however, reject such a request if (in his/her opinion) it:
  - It is not a matter where the Council has had a responsibility, or a legitimate interest;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a decision which has been considered, decided or rejected by a meeting of the Council in the past six months unless the notice of motion or amendment is signed by at least 24 members; or
  - requires the disclosure of confidential or exempt information.

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### **4.2 Business of Extraordinary Meetings**

- (i) No business shall be transacted at a meeting called by Members other than that specified in the notice published under Rule 9.1 below.
- (ii) The notice calling the meeting shall contain a motion which makes explicit the reason for calling the meeting and the action the Council is being asked to take.

### **5. CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES AND SUB-COMMITTEES**

- 5.1 Every Committee shall at its first Ordinary Meeting following the Annual Meeting of the Council and before proceeding to any other business, elect a Chairman and Vice-Chairman who shall remain in office until the first meeting of the Committee after the next Annual Meeting of the Council (such meeting to be held within 28 days of the day of the Annual Meeting of the Council) unless he/she resigns or ceases to be a member of the Council.
- 5.2 The Chairman of a Committee may summon a special meeting of the Committee at any time.
- 5.3 The Chairman may cancel or rearrange the date of a meeting at any time before the agenda has been published, if he/she feels there is insufficient business to justify the meeting, or there is some other good reason why it would not be appropriate to hold the meeting on the day originally proposed.

### **6. ATTENDANCE BY MEMBERS AT COMMITTEES**

- 6.1 Except in relation to a Regulatory Planning Committee, a Member of the Council may attend a meeting of any Committee of which he/she is not a Member and “participate” in the discussion of an item, but not to vote upon an item on the agenda, provided the item concerns that Member’s electoral division. Such Members will observe the same confidentiality conventions as apply to Members of the Committee in question.
- 6.2 The Chairman may in his/her absolute discretion afford a “right of audience” to any member not falling within para 6.1 above provided the comments remain relevant to the item on the agenda and shall do so for Group Leaders and with the consent of the Committee or Panel extend the Member’s rights to allow them to “participate”.
- 6.3 Where a resolution is passed excluding the public from a meeting, that exclusion shall not be deemed to apply to any Member of the Council but all Members will be expected to observe the confidentiality conventions.

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### 7. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

#### 7.1 Allocation

As well as allocating seats on Committees and SubCommittees-, the Council will allocate seats in the same manner for substitute Members.

#### 7.2 Number

For each Committee or SubCommittee, the Council will appoint the same number of substitutes in respect of each political group as that Group holds ordinary seats on that Committee or -SubCommittee, with the exception of- the Strategic Licensing Committee when considering Licensing Act 2003 matters where there will be no substitutes. Substitutes will be appointed on the Area Planning Committees, subject to those substitutes first receiving the necessary training.

#### 7.3 Powers and duties

Substitute Members will have all the powers and duties of any ordinary member of the Committee but cannot exercise any special powers or duties exercisable by the person for whom they are substituting. If the ordinary Member named in the notice given in Rule 7.4(iii) below is the Chairman of the relevant Committee, then the ViceChairman- shall preside or, if absent, the first item of business shall be the appointment of a Chairman for the meeting.

#### 7.4 Substitution

Substitute Members may attend meetings in that capacity only:-

- (i) if it is impracticable for the named ordinary Member of the Committee to attend a specified meeting of the Committee;
- (ii) to take the place of the ordinary Member from the same Group for whom they are a designated substitute;
- (iii) where the ordinary Member will be absent for the whole of the meeting; and
- (iv) in respect of substitutes from the same political group, after the ordinary Member or the Group Leader of the Group to which that member belongs has notified the Chief Executive or his/her representative of the intended substitution prior to the commencement of the meeting.
- (v) in respect of substitutes not from the same political group, after the Group Leader of the Group to which that member belongs (or, in respect of ungrouped members, the ungrouped member) has notified the Chief Executive or his/her representative of the intended substitution prior to the commencement of the meeting

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### 7.5 **Announcement of Changes**

The Chairman of the relevant meeting shall, at the commencement of the meeting, announce the name of any substitute Member(s) present and the name of the displaced ordinary Member(s).

### 8. **TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

### 9. **NOTICE OF AND SUMMONS TO MEETINGS**

#### 9.1 **Publication of Notice of Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence.

#### 9.2 **Contents of the Summons**

The Summons will give the date, time and place of each meeting and specify the business to be transacted. When sent electronically it will be accompanied by such reports as are available. When sent by post, such reports as are available will be sent separately by electronic means unless agreed by the Assistant Director of Legal and Democratic Services that they should be provided in paper form.

#### 9.3 **Service of the Summons**

- (i) Want of service of a summons on any Councillor shall not affect the validity of a meeting or any decisions taken; and
- (ii) If a Councillor gives notice in writing to the Chief Executive that they desire summonses to attend meetings to be sent to them at some address other than their usual place of residence, any summons addressed to them and left at or sent by post to that address shall be deemed sufficient service of the summons.

### 10. **AGENDA FOR MEETINGS OF COUNCIL**

#### (i) **Setting the Agenda - General**

The items to be included in the Agenda for a meeting of the Council shall, subject to compliance with this Constitution, the Scheme of Delegations and any statutory provision, be fixed by the Chief Executive in consultation with the Chairman.

#### (ii) **Pre-consideration of Policy**

At up to four Council meetings a year, Council may receive a preliminary report from a Policy Commission to enable the whole Council to be involved in and debate the policies and proposals under consideration. The Policy Commission will then take the preliminary views of Council into account when presenting their final proposals to Cabinet and a subsequent Council meeting.



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### (iii) **Resolution of Cabinet or a Scrutiny Committee**

By resolution of Cabinet or a Scrutiny Committee, or at the written request of any eight members and received not less than fifteen clear working days prior to the meeting of the Council at which it is proposed that the item of business be considered, then subject to these Rules any item of business shall be included on the Council Agenda.

## **11. CHAIRING OF MEETING**

### **11.1 Chairman to Preside if present**

The Chairman (if present) shall preside at a meeting of the Council.

### **11.2 Vice Chairman to Preside in absence of the Chairman**

If the Chairman is absent from a meeting of the Council, then the Vice Chairman (if present) shall preside.

### **11.3 Appointment of Person to Preside in absence of Chairman and Vice Chairman**

If both the Chairman and the Vice Chairman of the Council are absent, then the Members present at the meeting shall choose who shall preside for that meeting.

### **11.4 Casual Vacancies**

Where a casual vacancy occurs in the office of Chairman or Vice Chairman of the Council, the vacancy shall be filled by the election by the Council of one of its Councillors at its next meeting and the person so elected/appointed shall hold office until the date upon which the person in whose place they are elected/appointed would regularly have retired.

### **11.5 Powers of the Person Presiding**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and SubCommittee- meetings, references to the Chairman also include the Chairman of Committees and SubCommittees-.

### **11.6 Reports tabled at the meeting**

It shall be at the discretion of the Chairman whether to allow reports tabled at the meeting to be considered. In the event that he does so allow, the Chairman shall ensure that sufficient time is afforded to Members to consider the report and any associated papers. If the matter is not urgent then it also remains within the discretion of the Chairman whether to defer the matter for consideration at the next meeting.

## **12. QUORUM**

The quorum of a meeting will be one-quarter of the whole number of members.

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During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### 13. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for eight hours (four hours if it is an evening meeting) (including any adjournments) will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

### 14. QUESTIONS AND PETITIONS BY THE PUBLIC AT ORDINARY MEETINGS OF THE COUNCIL

#### 14.1 General

- (i) Members of the public having given proper notice may ask questions (no more than 250 words) of the Leader, a Portfolio Holder or a Chairman of Committee or Panel on any matter in relation to which the Council has powers or duties or which affects the whole or part of the area at an Ordinary Meeting of the Council.
- (ii) A period of 30 minutes will be set aside at each meeting and normally a maximum of six questions will be heard. If notice of more than six questions is received for the same meeting, priority will be given to matters in accordance with the order in which they are received.
- (iii) The Chairman shall have discretion to extend the question period to allow any question in progress at the expiry of the 30-minute period to be completed and answered or to allow more than six questions to be heard where these relate to items on the agenda. Where more than six questions are raised and the matters do not relate to items on the agenda, the person shall be offered the option of a written reply or deferral to the next meeting of the Council.
- (iv) When matters are raised that relate to items on the agenda, the Chairman may decide to defer the question until that item is reached and take it before Councillors start their debate.
- (v) The Council has a duty to listen to the concerns of people who live, work and study in Shropshire. Where these are identified in a petition, the matter must be considered in accordance with its Petition Scheme. This provides for a petition containing 1000 or more signatures to be debated by the Council, unless the petition has been presented previously to members.
- (vi) The Chief Executive may reject any petition which in his/her opinion is considered to be vexatious, abusive or otherwise inappropriate.

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- (vii) To be eligible for debate, a petition must identify the petition organiser, who shall not also be a member of the Shropshire Council. It shall contain the names and addresses or, alternatively, the names and place of work or study, as well as the signatures, of at least 1000 people. In addition the petition must have normally been received at least 10 working days prior to the Council meeting at which it is intended to be debated.
- (viii) Where these conditions have been satisfied, unless the petition requests that a Senior Officer gives evidence at a public meeting, the matter will be scheduled for debate at the next ordinary Council Meeting or such other date as determined by the Chairman in consultation with the Chief Executive. The petition organiser will be informed of the date as soon as is practicable.
- (ix) At the commencement of the debate the petition organiser will be given up to 5 minutes (unless the Chairman allows them additional time) in which to present the petition after which there shall be a debate of up to 15 minutes duration. The appropriate Portfolio Holder will then reply, after which a vote will be taken, where appropriate.
- (x) If the petition relates to a matter over which the Council has no control, unless the petition calls for action which is in conflict with the Council's own policy, Members will consider whether to make representations on behalf of the Community to the relevant body.

### 14.2 Order of questions and petitions

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

### 14.3 Notice of questions or petitions

- (i) A question may only be asked and a petition presented, if notice has been given to the Chief Executive no later than 12 noon on the day preceding the third clear working day before the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.
- (ii) Where a question relates to a report on the agenda and the report is published late, questions should be accepted for up to 24 hours after the report is published.
- (iii) An urgent question may be asked on less notice in an emergency situation (subject to approval by the Chief Executive)

### 14.4 Number of questions

At any one meeting, no person may submit more than one question. Multi-part questions will be refused if all parts do not relate clearly to the main question. No question shall contain more than 250 words.

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### 14.5 Scope of questions and petitions

The Chief Executive may reject a question or petition if (in his/her opinion) it:

- is not about a matter where the Council has a responsibility or a legitimate interest;
- is vexatious, defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.
- relates to the determination of a planning or licensing application
- relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment

### 14.6 Asking the question at the meeting

The person submitting the question will ask their question in person or remotely at the meeting and the relevant Member will respond in turn. Where a questioner is not able to attend the meeting either remotely or in person, their question will be read out on their behalf by an officer. All questions and responses provided will be made available on the webpage for the meeting.

### 14.7 Reference of question or petition to the Cabinet or a Committee

Unless the Chairman decides otherwise, no discussion will take place on any question but any Member may move that a matter raised by a question, or a petition be referred to the Cabinet, or the appropriate Committee, Sub-Committee or Scrutiny Committee. Once seconded, such a motion will be voted on without discussion.

### 14.8 Chairman's Discretion

The Chairman may in his/her absolute discretion allow a question to be put or a petition presented even where the requirements of this rule have not been complied with

## 15. QUESTIONS BY MEMBERS

### 15.1 On reports of the Cabinet or Committees

A Member of the Council may ask the Leader, portfolio holder or the Chairman of a Committee or Panel any question without notice upon an item of the report of the Cabinet or a Committee or Panel when that item is being received or under consideration by the Council.

### 15.2 Questions on notice at full Council

Subject to Rule 15.4, a Member of the Council may ask:

- the Chairman;
- the Vice Chairman;

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- a Member of the Cabinet
- the Leader; or
- the Chairman of any Committee, Sub-Committee or Panel

a question (no more than 250 words) on any matter in relation to which the Council has powers or duties or which affects the area.

### 15.3 Questions on notice at Committees and Sub-Committees

A Member may ask the Chairman of a Committee, Sub Committee or Panel a question (no more than 250 words) on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub Committee.

The Chairman shall have discretion to extend the question period to allow any question in progress of the expiry of the 30 minute period to be completed and answered, or to allow more than six questions to be heard where these relate to items on the agenda.

The Chairman may group similar questions together and where more than six questions are received he/she shall offer the questioner the option of a written reply or deferral to the next appropriate meeting of the Committee, Sub Committee or Panel..

A question may only be asked if notice has been given to the Assistant Director of Legal and Democratic Services by 12 noon on the day preceding the third clear working day before the meeting. Where a question relates to a report on the agenda and the report is published late, questions should be accepted for up to 24 hours after the report is published. At any one meeting, no person may submit more than one question. Multi-part questions will be refused if all parts do not relate clearly to the main question. No question shall contain more than 250 words.

Questions which relate to urgent matters may be asked, with the consent of the Chief Executive. The content of such a question must be given in writing to the Chief Executive no later than 9.30 a.m. on the day of the meeting.

The Assistant Director of Legal and Democratic Services may reject a question if (in his/her opinion) it:

- Is not a matter where the Committee has a responsibility or a legitimate interest;
- Is vexatious, defamatory, frivolous or offensive;
- Is substantially the same as a question which has been put at a meeting of the Committee in the previous six months; or
- Requires the disclosure of confidential or exempt information.

### 15.4 Notice of questions

A Member may only ask a question under Rule 15.2 if either:

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- (a) he/she has submitted the question, in writing, to the Chief Executive, by 12 noon on the day preceding the third clear working day before the meeting; or
- (b) the question relates to urgent matters, and he/she has the consent of the Chairman and the Member to whom the question is to be put, and the content of the question is given in writing to the Chief Executive no later than 9.30 a.m. on the day of the meeting.

### 15.5 Number of questions

A period of up to 30 minutes shall be set aside at each meeting when normally up to six questions will be heard. If notice is received of more than six questions for the same meeting, priority will be given to questions in accordance with the order in which they were received. At any one meeting, no Member may submit more than one question.

### 15.6 Questions about the Shropshire and Wrekin Fire Authority

A Member of the Council may address questions on the discharge of the functions of the Shropshire and Wrekin Fire Authority to the person nominated for that purpose by the Authority during consideration of the Reports of the Authority.

### 15.7 Asking the question at the meeting

The member submitting the question will ask the question in person or remotely at the meeting and the relevant Member will respond in turn. Where a questioner is not able to attend the meeting either remotely or in person, their question will be read out on their behalf by an officer. All questions and responses provided will be made available on the webpage for the meeting.

### 15.8 Response

An answer may take the form of:

- (a) a direct written or oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally or in writing on the day, a written answer circulated later to the questioner.

### 15.9 Supplementary question

A Member asking a question under Rule 15.2 or 15.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

Any supplementary question which cannot be dealt with during the time allotted for Members' Questions will be dealt with by a written answer.

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### 16. MOTIONS ON NOTICE

#### 16.1 Notice

Except for motions which can be moved without notice under Rule 17, written notice of every motion signed by at least four Members or a Group Leader (who must ensure that they have the consent of all group members) on behalf of all members of their group must be delivered to the Chief Executive at least than 10 clear working days before the date of the meeting.

#### 16.2 Motion set out in agenda

Motions for which notice has been given will be listed towards the end of the Council agenda but prior to the Fire Authority report, unless the Member giving notice states, in writing that they propose to move it to a later meeting or withdraw it. The Chairman is given authority to vary the order of business if requested by the proposer of any motion which relates to an important issue affecting the budget, plans or policies of the Council. A notice of motion which seeks referral of a motion or other matter to Cabinet, a Committee or Panel or where the proposer seeks such a referral in moving the motion, it shall, unless the Chairman otherwise directs, stand automatically referred without discussion.

#### 16.3 Scope

- (i) Motions must be about matters for which the Council has a responsibility or which affect the area.
- (ii) No motion or amendment shall be discussed which if passed would commit the Council to expenditure or loss of income or to the incurring of liabilities unless a sufficient approved budget vote or virement or contingency is identified subject only to the motion or amendment being permitted on the grounds of urgency or expediency by the Chairman of Council.
- (iii) Background papers for motions shall only be provided by Officers in relation to motions relating to the work of the Council.

### 17. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda, or that particular items of business specified in the summons should have precedence;
- (d) to refer something to an appropriate body or individual;

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- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond eight hours in duration;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under Rule 25 or to exclude them from the meeting under Rule 25.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

### **18. RULES OF DEBATE**

#### **18.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

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

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

#### **18.3 Secunder's speech**

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

#### **18.4 Content and length of speeches**



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Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chairman.

At the Budget Meeting in February, each Group Leader may have one speech up to a maximum of ten minutes and presentations from outside bodies at Council shall normally be limited to a maximum of 15 minutes, subject to the Chairman's discretion, followed by a 15 minute question and answer session.

### 18.5 When a member may speak again

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

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

### 18.6 When an officer may speak

A chief or senior officer may speak in presenting a report or in presenting advice or answering questions of a factual nature during debate. Any other contributions will be at the invitation of the Chairman.

### 18.7 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words,as long as the effect of (ii) to (iv) above is not to negate the motion.

## Part 4 – Council Procedure Rules

- (b) Any ruling by the Chairman on whether or not an amendment to a motion amounts to negation of the motion shall be final and not open to debate.
- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or, if there are none, put it to the vote.

### 18.8 Alteration of motion

- (a) A Member may alter a motion including accepting an amendment of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### 18.9 Withdrawal of motion

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### 18.10 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion, has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

### 18.11 Procedural motions which may be moved during debate

## Part 4 – Council Procedure Rules

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond eight hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 25.3 or to exclude them from the meeting under Rule 25.4

### 18.12 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the

## **Part 4 – Council Procedure Rules**

procedural motion to the vote without giving the mover of the original motion the right of reply.

### **18.13 Point of order**

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final and shall not be open to any debate or discussion.

### **18.14 Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate, or to refute personal allegations. The ruling of the Chairman on the admissibility of a personal explanation will be final and shall not be open to any debate or discussion.

### **18.15 Respect for the Chairman**

Whether specifically provided for in these Rules or not, the ruling of any person presiding at a meeting of the Authority on all questions of order and of matters arising in any debate shall be final and not open to discussion.

## **19. PREVIOUS DECISIONS AND MOTIONS**

### **19.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 24 Members.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 24 Members. Once the motion or amendment is dealt with, no-one can propose a similar motion or amendment for six months.

## **20. VOTING**

### **20.1 Majority**

## Part 4 – Council Procedure Rules

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

### 20.2 **Chairman's casting vote**

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

### 20.3 **Show of hands**

Unless a ballot or recorded vote is demanded under Rules 20.4 and 20.6, the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

### 20.4 **Recorded vote**

If 15 Members present at the Council meeting, or for Committees and Panels one-quarter of the total membership or three Members whichever is the greater, demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

### 20.5 **Right to require individual (named) vote to be recorded**

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

### 20.6 **Voting on appointments**

If there are more than two people nominated for any position to be filled (including any Chairmanship or Vice-Chairmanship) and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. The voting may take place by ballot if the Council so determines and in the case of equality of votes for two or more candidates, then the Chairman shall have a second or casting vote in accordance with Rule 20.2 above.

### 20.7 **The Division Bell**

Where a vote is to be taken on any motion or amendment, the Division Bell will be rung, and the vote will take place 20 seconds thereafter.

## 21. **MINUTES**

## Part 4 – Council Procedure Rules

### 21.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy, and no motion or discussion shall take place on the minutes except upon their accuracy.

### 21.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### 21.3 Form of minutes

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

## 22. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 23. FAILURE TO ATTEND MEETINGS

- (i) As required by Section 85 of the Local Government Act 1972, where a Councillor fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Authority (see Note below), then they cease to be a Member of the Authority unless the failure was due to some reason approved by, or on behalf of, the Council before the expiry of that period.
- (ii) Additional non-voting Members of Committees and Panels who fail to attend a meeting of the relevant body over a six month period, except for some reason agreed by the relevant body before the expiry of the said period, will cease to qualify as a Member of that body.

(Note: “Meetings of the Authority” as defined within the legislation includes the Council meeting itself, and meetings of Cabinet, Committees, Joint Committees, Panels, and outside body attendance where the Councillor is a “named Member” of that body.)

## 24. EXCLUSION OF PUBLIC

## **Part 4 – Council Procedure Rules**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules as set out in Part 4 of this Constitution or Rule 26 (Disturbance by the Public).

### **25. MEMBERS' CONDUCT**

#### **25.1 Standing to speak**

A Member when speaking at full Council shall stand and address the Chairman unless permitted by the Chairman to sit on account of disability or infirmity. If more than one Member stands, the Chairman will ask one to speak and the others must sit down. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### **25.2 Chairman standing**

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent. The Chairman shall have power to control the meeting and generally to take such steps as he/she considers necessary to maintain order and the proper conduct of business.

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

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

#### **25.4 Member to leave the meeting**

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

#### **25.5 General disturbance**

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

### **26. DISTURBANCE BY PUBLIC**

#### **26.1 Removal of member of the public**

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

#### **26.2 Clearance of part of meeting room**

## Part 4 – Council Procedure Rules

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

### 27. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

#### 27.1 Suspension

All of these Council Rules of Procedure except Rules 20.5 (right to require individual vote to be recorded) and 21.2 (no requirement to sign the minutes of a previous meeting at an extraordinary meeting) may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

#### 27.2 Amendment

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

### 28. MEMBER'S RIGHT TO INSPECT DOCUMENTS

28.1 A Member of the Council may for the purposes of his/her duty as such Member, but not otherwise:-

- (i) Inspect any document which has been considered by a Committee or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such document.
- (ii) Inspect any other document if in the opinion of the appropriate Chief Officer, Chairman, Vice Chairman, Committee or the Council he/she has a genuine need as a Member to know what the document contains and if in the judgement of that Chief Officer, Chairman, Vice Chairman, Committee or the Council it is appropriate in all the circumstances, including the nature and contents of the document itself, that he/she should inspect it.

Provided that:-

- (a) a Member shall not knowingly inspect, or call for a copy of, any document relating to a matter in which he/she is professionally interested or in which he/she has directly or indirectly any disclosable pecuniary interest within the meaning of the Code of Conduct for Members
- (b) a Member who is allowed to inspect any document which is on the face of it confidential or on condition that he/she respects its confidentiality shall not without the express consent of the Chairman, Vice Chairman, Committee or the Council communicate the contents of the document or any part of it to any other person, and



## Part 4 – Council Procedure Rules

- (c) this Rule shall not preclude the Assistant Director of Legal and Governance from declining to allow inspection of any document which is, or in the event of legal proceedings, would be legally protected by privilege.

All minutes kept for any Committee shall be open for the inspection of any Member of the Council during office hours.

### **29. INSPECTION OF LAND, PREMISES ETC**

- 29.1 A Member unless authorised to do so by the Council or a Committee, shall not inspect any lands or premises which the Council has the right or duty to inspect, to enter upon or issue any order respecting any works which are being carried out by or on behalf of the Council.

### **30. CANVASSING ON APPOINTMENTS**

- 30.1 Canvassing of Members of the Council or any Committee of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate for such appointment. The purport of this paragraph of this Standing Order shall be stated either in the advertisement inviting applications for appointment or in any form of application or particulars supplied for use by candidates.
- 30.2 A Member of the Council shall not solicit for any person any appointment under the Council, or recommend any person for such appointment or for promotion; but this paragraph of this Standing Order shall not preclude a Member from giving a written testimonial of a candidate's ability, experience or character, for submission to the Council with an application for appointment.

### **31. RELATIVES OF MEMBERS OR OFFICERS**

- 31.1 Candidates for any appointment under the Council shall when making application disclose in their form or letter of application to the appropriate Chief Officer whether to their knowledge they are related to any Member of the Council or any Member of a body appointing persons who will be paid by the Council or any senior employee of the Council. A candidate who fails so to do shall be disqualified for such appointment and if appointed shall be dismissed. Every Member and senior employee of the Council shall disclose to the appropriate Chief Officer any relationship known to him/her to exist between himself/herself and a candidate for any appointment of which he/she is aware. The appropriate Chief Officer shall report to the Council or to the Chief Executive any such disclosure made to him/her if he/she considers such action to be necessary.
- 31.2 Where a relationship of a Member of the Council is disclosed, the relevant provision of the Code of Conduct for Members shall apply.

## Part 4 – Council Procedure Rules

- 31.3 The purport of this Rule shall be stated either in the advertisement inviting applications for appointment or in any form of application or particulars supplied for use by candidates.
- 31.4 For the purpose of this Rule “Senior Employee” means any employee of the Council employed in a grade the maximum of which exceeds spinal column point 44 or the equivalent thereof, and persons shall be deemed to be related if they are husband and wife or if either of them or the spouse of either of them is the son or daughter or grandson or grand-daughter or brother or sister or nephew or niece of the other, or of the spouse of the other.

### **32. APPLICATION OF THE RULES**

#### **32.1 Application of Rules to Council**

All of the Council Rules of Procedure apply to meetings of full Council.

#### **32.2 Application of Rules to Committees and Sub-Committees**

Rules 5-14; 16-22 (but not 20.7); and 24-26 (but not 25.1) also apply to meetings of Committees and Sub-Committees. Where necessary, any reference to specific Members in any of the above Rules shall be read as being reference to one-third of the Members present at any Committee or Sub-Committee or three Members, whichever is the higher.

#### **32.3 Application of Rules to the Cabinet**

Rules 14, 20 (but not 20.7) also apply to meetings of the Cabinet.

## **Part 4 – Access to Information Procedure Rules**

### **ACCESS TO INFORMATION PROCEDURE RULES**

#### **1. SCOPE**

##### **Executive arrangements**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Joint Committees, the Standards Committee and Regulatory Committees and public meetings of the Executive (together called meetings).

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

#### **3. RIGHTS TO ATTEND MEETINGS**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.
- 3.2 If a member of the public or the press interrupts the proceedings at any meeting the Chair may warn him. If he continues the interruption and a warning has been given, the Chair may order his removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.
- 3.4 If the Chair considers the orderly dispatch of business impossible, he may without question adjourn the meeting.
- 3.5 The above powers of the Chair are in addition to any other power vested in him/her.

#### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at The Shirehall, Abbey Foregate, Shrewsbury SY2 6ND (Designated Office) and on its website at [www.shropshire.gov.uk](http://www.shropshire.gov.uk).

## **Part 4 – Access to Information Procedure Rules**

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised 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) will be open to inspection for the time the item was added to the agenda.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) 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 a charge for postage and any other costs.

### **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 Cabinet, excluding any part of the minutes of proceedings 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 open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

### **8. BACKGROUND PAPERS**

#### **8.1 List of background papers**

The Chief Officer 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

## **Part 4 – Access to Information Procedure Rules**

(b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **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 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 Shirehall, Abbey Foregate, Shrewsbury SY2 6ND.

*As the Constitution must be available to the public then these Rules constitute the written summary.*

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

The public may only be excluded under 10.1 and 10.2 for the part of parts of the meeting during which it is likely that confidential or exempt information would be divulged.

### **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. Such a decision to exclude the public is to be made by resolution of the relevant decision making body. 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.

### **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 Court Order.

## Part 4 – Access to Information Procedure Rules

### 10.4 Meaning of exempt information

**Exempt information means information falling within the following seven categories, subject to the conditions in paragraph 10.5, and information is exempt if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

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

### 10.5 Category Condition

Information falling within paragraph 3 above is **not** exempt information by virtue of that paragraph if it is required to be registered under,

The Companies Acts (as defined in section 2 of the Companies Act 2006);  
The Friendly Societies Act 1974;  
The Friendly Societies Act 1992;  
The Co-operative and Community Benefit Societies Act 2014;  
The Building Societies Act 1986; or  
The Charities Act 2011.

Information is **not** exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and County Planning General Regulations 1992.

## **Part 4 – Access to Information Procedure Rules**

- 10.6 Where a resolution is passed excluding the public from a meeting, that exclusion shall not be deemed to apply to any Member of the Council but all Members will be expected to observe the confidentiality conventions.

### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

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 the category of information likely to be disclosed.

### **12. APPLICATION OF RULES TO THE EXECUTIVE (CABINET)**

Rules 13 – 22 apply to the Cabinet and its committees and where appropriate individual decisions of Portfolio Holders. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief Members.

### **13. PROCEDURE BEFORE 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) at least 28 clear days have elapsed since the publication of the Forward Plan; and
- (c) 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 meetings).

## Part 4 – Access to Information Procedure Rules

### 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 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 Executive, officers, certain matters to be dealt with by the Area Planning Committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (i) that other documents relevant to those matters may be submitted to the decision maker; and
- (j) the procedure for requesting those details (if any) as they become available.



## Part 4 – Access to Information Procedure Rules

The Forward Plan must be made available for inspection by the public at the Council's offices and on the Council's website.

The Forward Plan must be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

### 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 chair of a relevant Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;

## Part 4 – Access to Information Procedure Rules

- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear working days have elapsed since the Proper Officer complied with (b) and (c).
- (e) as soon as reasonably practicable after the Proper Officer has complied with (a)-(d) above the Proper Officer must make available at the offices of the Council and publish on [the](#) Council's website the reasons why compliance with Rule 14 is impractical.

Where such a decision is taken collectively, it must be taken in public.

### 16. SPECIAL URGENCY

- 16.1 If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, 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 a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Scrutiny Committee, or if the chair of each relevant Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Deputy Chairman will suffice.
- 16.2 As soon as reasonably practicable after the decision taker has obtained the agreement under Rule 16.1 the decision taker must make available at the offices of the Council and publish on the Council's website a note setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

### 17. REPORT TO COUNCIL

#### 17.1 When a Scrutiny Committee can require a report

If a 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 relevant Scrutiny Committee Chair, or the Chairman/Deputy Chairman of the Council under Rule 16;

the Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision taker, and the reasons if any for the Cabinet believing that the decision was a key decision.

The power to require a report rests with the Scrutiny Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by (the Chairman or any 5

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members of the Scrutiny Committee). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

### **17.2 Cabinet's report to Council**

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 7 days of receipt of the written notice, or the resolution of the committee, 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 Leader is of the opinion that it was not a key decision the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three 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 DECISIONS**

After any meeting of the Cabinet, or any of its committees whether held in public or in 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 practicable. The record will include:

- 18.1 a record of the decision including the date it was made;
- 18.2 a record of the reason for the decision;
- 18.3 details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- 18.4 a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body which made the decision; and
- 18.5 in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

## **19. MEMBER AND OFFICER ATTENDANCE AT PUBLIC MEETINGS OF THE CABINET**

- 19.1 Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member of members of the public in order

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to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part of parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

### **19.2 CABINET MEMBERS**

All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

### **19.3 LOCAL MEMBERS**

- (a) Notice of public meetings of the Cabinet and its committees will be served on a Member where that matter concerns that Member's electoral division.
- (b) Where a matter under consideration at a public meeting of the Cabinet, or a committee of it, does cover a Member's electoral division, that Member may attend that meeting, or committee of it, with the consent of the person presiding and speak.

### **19.4 SCRUTINY COMMITTEE MEMBERS**

- (a) Notice of public meetings of the Cabinet and its committees will be served on the Chairs of all Scrutiny Committees, at the same time as notice is served on Members of the Executive. Where a Scrutiny Committee does not have a Chair, the notice will be served on all the Members of that Scrutiny Committee.
- (b) Where a matter under consideration at a public meeting of the Cabinet, or a committee of it, is within the remit of a Scrutiny Committee, the Chair of that Scrutiny Committee or in his/her absence the Vice-Chair may attend that public meeting with the consent of the person presiding, and speak.

### **19.5 ALL MEMBERS**

Any Member will be able to address the meeting for a maximum period of three minutes provided the comments remain relevant to the item on the agenda. The Chairman shall also afford a "right of audience" for Group Leaders or their Deputies. The Chairman does however retain the right to limit such contributions by Members if in his/her view the efficient conduct of the meeting is compromised.

### **19.6 OFFICERS**

- (a) The Head of Paid Service, the Directors, 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.

## Part 4 – Access to Information Procedure Rules

- (b) A public 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.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

### 20. NOTICE OF PRIVATE MEETINGS OF CABINET

- 20.1 Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.
- 20.2 At least 28 days before a private meeting, the decision taking body must:-
  - (a) make available at the Council offices a notice of its intention to hold the meeting in private ( a "Notice of Private Meeting"); and
  - (b) publish that notice on the Council's website.
- 20.3 At least five clear days before a private meeting, the decision taking body must:-
  - (a) make available at the Council offices a further notice of its intention to hold the meeting in private; and
  - (b) publish that notice on the Council's website.
- 20.4 A notice under paragraph 20.3 must include:-
  - (a) a statement of reasons for the meeting to be held in private
  - (b) details of any representations received by the decision taking body about why the meeting should be open to the public; and
  - (c) a statement of its response to any such representations.
- 20.5 Where the date by which a meeting must be held make compliance with this Rule impractical, the meeting may only be held in private where the decision taking body has obtained agreement from :-
  - (a) the Chair of a relevant Scrutiny Committee; or
  - (b) if there is no such person, or if the Chair of the relevant Scrutiny Committee is unable to act the Chairman of the Council; or
  - (c) where there is no chair of either the relevant Scrutiny Committee or of the Council, the vice Chairman of the Council that the meeting is urgent and cannot reasonably be deferred.
- 20.6 As soon as reasonably practicable after the decision taking body has obtained agreement under paragraph 20.5 to hold a private meeting, it must
  - (a) make available at the Council offices a notice setting out the reason why the meeting is urgent and cannot reasonably be deferred; and
  - (b) publish that notice on the Council's website.

## **Part 4 – Access to Information Procedure Rules**

### **21. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

#### **21.1 Reports intended to be taken into account**

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days have elapsed following notification of the Portfolio Holder decision making session on the Council's website.

#### **21.2 Provision of copies of reports to Scrutiny Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

#### **21.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare a report containing:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

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 Executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

#### **21.4 Inspection of documents following executive decisions**

- (a) Subject to Rule 27, after a meeting of a decision taking body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the Proper Officer must ensure that a copy of:-
  - (i) any records prepared in accordance with Rules 18 or 21; and
  - (ii) any report considered at the meeting, or as the case may be, considered by the individual member or officer and relevant to the decision recorded in accordance with Rules 18 and 21 or, where only part of the report is relevant to such a decision, that part,

## **Part 4 – Access to Information Procedure Rules**

must be available for inspection by members of the public, as soon as reasonably practicable, at the Council offices, and on the Council's website.

- (b) Where a request on behalf of a newspaper is made for a copy of any of those documents available for public inspection under Rule 21.4 (a), those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charges for transmission.

### **21.5 Inspection of Background Papers**

Subject to Rule 27, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 and or Rule 21.4 at the same time:-

- (a) a copy of the list compiled by the Proper Officer of the background paper to the report or part of the report must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the Council offices and on the Council's website.

## **22 SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **22.1 Rights to copies**

Subject to Rule 22.2 below, a Scrutiny Committee (including its sub-committees) will be entitled to 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 transacted or to be transacted at a meeting of the Executive or its committees; or
- (b) any decision taken or to be taken by an individual member of the Cabinet
- (c) any decision taken by an Officer of the Council in accordance with executive arrangements.

### **22.2 Limit on rights**

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.

## **Part 4 – Access to Information Procedure Rules**

### **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

#### **23.1 Material relating to previous business**

- (a) All Members will be entitled to inspect any document (except those available only in draft form) 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 meeting or to any decision made by a member of officer in accordance with executive arrangements unless either (a) or (b) below applies.
  - (i) it contains exempt information falling within paragraphs 1,2,4,5 or 7 of the categories of exempt information; or
  - (ii) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed by or to the Council in the course of negotiations for a contract; or
  - (iii) it contains the advice of a political adviser.
- (b) Any document required to be made available for inspection under Rule 22.1 must be made available when the meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

#### **23.2 Material relating to business transacted at a Public Meeting**

- (a) 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 contain material relating to any business transacted at a public meeting unless paragraph Rule 23.1 ( a) (i), (ii) or (iii) ) above applies.
- (b) Any document which is required by Rule 23.2 (a) to be available for inspection by any member of the Council must be available for inspection for at least five (5) clear days before the meeting except that:-
  - (i) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
  - (ii) where and item is added to the agenda at shorter notice, a document that would be required to be available under Rule 23.2 (a) in relation to that time, must be available for inspection when the item is added to the agenda.

### **24. Nature of rights**

These rights of a member are additional to any other right he/she may have.



## Part 4 – Access to Information Procedure Rules

25. **CONFIDENTIAL INFORMATION, EXEMPT INFORMATION AND ADVICE OF A POLITICAL ADVISER OR ASSISTANT**
- 25.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 25.2 Nothing in these Rules:
- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if in the opinion of the Proper Officer that document or part of document contains or may contain confidential information; or
  - (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if in the opinion of the Proper Officer, that document or part of document contains or is likely to contain exempt information or the advice of a political adviser or assistant.
- 25.3 Where a member of the executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:
- (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 adviser or assistant.
- 25.4 Nothing in these Rules requires a decision taking body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings ( whether at the time or later ), or the making of any oral report on any proceedings as they take place.

# Part 4 – Budget and Policy Framework Procedure Rules

## BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

NB – When the phrase ‘budget and policy framework’ is used here, it also refers to any constituent plan or strategy.

### 2. CABINET LEADS PROCESS; OVERVIEW AND SCRUTINY COMMITTEE INVOLVEMENT WITHIN CABINET CONSULTATION PROCESS; DIFFERENTIAL VOTING ON DISPUTES REGARDING BUDGET AND POLICY PROPOSALS

- (a) The Cabinet will publicise by including in the forward plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. All Members of the Council, including the chairmen of scrutiny committees will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- (b) At the end of that period, the Leader will then draw up firm proposals having regard to the responses to that consultation. If a relevant scrutiny committee wishes to respond to the Cabinet in that consultation process then it may do so. It is open to the Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Leader will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees.
- (c) Once the Leader has discussed his/her proposals with the Cabinet and Cabinet has approved the firm proposals, those proposals will be presented by the Leader to Council for decision.
- (d) In reaching a decision, the Council may adopt the Leader’s proposals, or may amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Leader without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective at least 5 days from the date of the Council’s decision, unless the Leader informs the proper officer in writing within 5 days that [he/she] objects to the decision becoming effective and provides reasons why.

## **Part 4 – Budget and Policy Framework Procedure Rules**

- (h) In that case, the proper officer will call a Council meeting within a further 2 days. The Council will be required to re-consider its decision and the Leader's written submission within 5 days. The Council may:
  - (i) approve the Leader's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive (Cabinet), in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, a committee of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wish to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, a committee of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council;

## Part 4 – Budget and Policy Framework Procedure Rules

- (ii) the chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency (In the absence of the chair of a relevant Scrutiny committee the agreement of the Chairman of the Council or in the absence of both, the agreement of the Deputy Chairman will be sufficient); and
- (iii) after appropriate advice/consultation has been taken from the Chief Executive, Monitoring Officer, Chief Finance Officer and the relevant Director.

The reasons why it is not practical to convene a quorate meeting of full Council and why the chair of the relevant Scrutiny Committee consent to the decision being taken as a matter of urgency (in the absence of the chair of a scrutiny committee the consent of the Chairman of the Council or in the absence of both the consent of the Deputy Chairman will be sufficient) must be noted on the record of the decision.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### 5. VIREMENT

- (a) The Council shall have budget heads which are set by full Council when approving the Council's annual budget in accordance with the Financial Rules in Part 4 of the Constitution.
- (b) Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire within budget heads in accordance with the Financial Rules, ie up to £500,000. Approval to any virement across budget heads shall require the approval of the full Council, subject to the Financial Rules.

### 6. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council; any decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but

## Part 4 – Budget and Policy Framework Procedure Rules

where the existing policy document is silent on the matter under consideration;

- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed changes; or
- (e) for which provision is made within the relevant policy

### 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Where a Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and/or Chief Financial Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committees may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 7 days of the request by a Scrutiny Committee or consider the matter at its next meeting depending on urgency of decision. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or Chief Financial Officer. The Council may either:
  - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

- (ii) amend the Council's financial rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

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- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

## Part 4 – Standing Orders Relating to Proceedings and Business

### STANDING ORDERS RELATING TO PROCEEDINGS AND BUSINESS

1. In this Standing Order:

‘Cabinet’ and ‘Leader’ have the same meanings as ‘Executive’ and ‘Executive Leader’ have in Part 1A of the Local Government Act 2000; and

‘plan or strategy’ and ‘working day’ have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

2. Where the Cabinet of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

3. Before the authority:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the ‘revised draft plan or strategy’), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
- (b) inform the authority of any disagreement that the Cabinet has with any of the authority’s objections and the Cabinet’s reasons for any such disagreement.

5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when:

- (a) amending the draft plan or strategy, or if there is one, the revised draft plan or strategy;

## Part 4 – Standing Orders Relating to Proceedings and Business

- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the authority, or informed the authority of, within the period specified.

6. Where, before 8 February in any financial year, the authority's Cabinet submits to the authority for its consideration in relation to the following financial year:
- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;
  - (c) estimates of such a calculation; or
  - (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
- (a) submit a revision of the estimates or amounts as amended by the Cabinet ('revised estimates or amounts'), which have been reconsidered in accordance with the authority's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
  - (b) inform the authority of any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for any such disagreement.



## Part 4 – Standing Orders Relating to Proceedings and Business

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, take into account:
- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the Cabinet's reasons for those amendments;
  - (c) any disagreement that the Cabinet has with any of the authority's objections; and
  - (d) the Cabinet's reasons for that disagreement,
- which the Leader submitted to the authority, or informed the authority of, within the period specified.
10. Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
11. In paragraph 10—
- (a) "budget decision" means a meeting of the relevant body at which it—
    - (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 ; or
    - (ii) issues a precept under Chapter 4 of Part 1 of that Act,and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;
  - (b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## Part 4 – Executive Procedure Rules

### EXECUTIVE PROCEDURE RULES

#### 1. HOW DOES THE EXECUTIVE OPERATE?

##### 1.1 Who May Make Executive Decisions?

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) an area planning committee;
- (vi) joint arrangements including Joint Committees; or
- (vii) another local authority.

##### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council, a written record of executive delegations made by him/her for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (i) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader proposes and the names of Cabinet Members to be appointed to them;
- (iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet members to be appointed to any joint committee for the coming year; and
- (v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

##### 1.3 Sub-Delegation of Executive Functions

(i) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

(ii) Unless the Leader directs otherwise, a committee of the Cabinet to whom a functions have been delegated by the Leader may delegate further to an officer.

(iii) Where the executive functions have been delegated that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## **Part 4 – Executive Procedure Rules**

### **1.4 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution;
- (b) If every member of the Cabinet has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

### **1.5 Cabinet Meetings - When and Where?**

The Cabinet will meet on dates and times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### **1.6 Public or Private Meetings of the Cabinet?**

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public meetings. Other than the legal requirements, consideration should also be given to any principles of decision-making set out in Article 13 of this Constitution.

### **1.7 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one quarter of the total number of members of the Cabinet (including the Leader), or 3 including the Leader, whichever is the larger.

### **1.8 How are Decisions to be taken by the Cabinet?**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

### **1.9 Decision Making Sessions by Members of the Cabinet.**

- (a) Where a member of the Cabinet exercises functions delegated to him/her in accordance with the Portfolio Holders' Scheme of Delegation such sessions shall be conducted in accordance with the Decision Making Protocol in Part 5 of the Constitution.

## **Part 4 – Executive Procedure Rules**

- (b) All members shall be entitled to attend a decision making session and to address the member making the decision without being required to give notice.
- (c) Any members of the public wishing to submit a request to address the member making the decision or to ask questions of the member making the decision shall give not less than two clear working days' notice in writing in advance of the decision making session to the Chief Executive and the member making the decision shall decide whether to hear such persons and if so, the arrangements to be made.

### **2. HOW ARE CABINET MEETINGS CONDUCTED?**

#### **2.1 Who Presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

#### **2.2 Who May Attend?**

The Access to Information Rules in Part 4 of the Constitution set out who may attend public and private meetings.

#### **2.3 What Business?**

At each meeting of the Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) questions/address by members of the public; (if meeting in public)
- (iv) matters referred to the Cabinet (whether by the Scrutiny Committees or the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from Scrutiny Committees; and
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

#### **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, 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.

## Part 4 – Executive Procedure Rules

### 2.5 Who Can Put Items on the Cabinet Agenda?

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

An item can be referred to the Cabinet:

- (1) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Proper Officer will comply.
- (2) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny Committees or Full Council. However, there may only be up to 5 such items per Cabinet meeting.
- (3) Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered. **[This individual will be invited to attend the meeting, whether or not it is a public meeting.]** However, there may only be up to 3 such items per Cabinet meeting.
- (4) The Proper Officer will make sure that an item is placed on the agenda on the next available meeting of the Cabinet where an area committee has resolved that an item be considered by the Cabinet.
- (5) The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### 2.6 Holding Cabinet Members and Scrutiny Chairs to Account

To enable Non-Cabinet Members to hold their colleagues on the Cabinet and also Scrutiny Chairs to account and to keep non-Cabinet members properly informed, Portfolio Holders and Scrutiny Chairs shall:

1. Report annually to Council on their work at their June / July / September Council meetings. Each Portfolio Holder and Scrutiny Chair shall have up to five minutes to introduce his/her report. This will then proceed under the normal rules of debate with the Portfolio Holder and Scrutiny Chair having a right of reply, as well as up to ten minutes to sum up at the end of the debate.

# Part 4 - Licensing Act Sub-Committee Procedure Rules

## LICENSING ACT SUB COMMITTEE PROCEDURE RULES

1. The rules for the Licensing Act 2003 and Gambling Act 2005 Sub Committees (“Licensing Act Sub Committee[s]”) shall be as follows:

2. **Composition**

The Licensing Act Sub-Committees shall comprise of 3 Members of the Strategic Licensing Committee as appointed.

The Licensing Act Sub-Committees shall comprise three members who do not represent the division affected, who do not have a disclosable pecuniary interest in the subject matter and who are not representing one of the parties, from the membership of the Strategic Licensing Committee, appointed by the Group Manager Public Protection and Enforcement or the Environmental Health Manager to determine applications (referred to in the Council’s Scheme of Delegation) under the Licensing Act 2003 and the Gambling Act 2005.

3. **Number of Meetings**

The Licensing Act Sub-Committees will meet as and when necessary.

4. **Quorum**

The Quorum for the Licensing Act Sub-Committee shall be three.

5. **Role and Function**

The Licensing Act Sub-Committees (subject to any legislative restrictions) will be responsible for discharging all of those functions conferred on the Strategic Licensing Committee in relation to the Licensing Act 2003 and the Gambling Act 2005.

6. **Speaking at Meetings of the Sub Committee**

Members of the public and of Council staff will be entitled to speak at meetings of the Licensing Act Sub-Committee in accordance with the procedure rules for the Sub-Committee.

7. **Bias and Predetermination**

Bias is an attitude of mind which prevents the decision maker from making an objective determination of the issues that he/she has to resolve. There is no need for proof of actual potential bias for there to be a “procedural impropriety”. It is sufficient that there is an appearance of bias. The test for bias is “whether a fair-minded informed observer, having considered the facts would conclude that there was a real possibility of bias”.

Where the decision to be made is quasi-judicial, as at the Licensing Act Sub-Committee, the key issue to ensure the legality of the decision is the “public perception of a probability of unconscious bias”. Members should therefore

## Part 4 - Licensing Act Sub-Committee Procedure Rules

avoid participating as a member of the Licensing Act Sub-Committee where previous voting or statements of belief may alter that objective impression conveyed.

A Member should not reach a final conclusion before he/she comes to take a decision on an issue. A Member's statements and activities should not create the impression that his/her views on a matter are fixed, and that he/she will not fairly consider the evidence or arguments presented to him/her, when he/she is making a decision.

'Bias' also includes the situation where it is felt that the decision maker has predetermined the case based on his/her own prejudices. An obvious example is where the impression is clearly given to e.g. members of the public or a lobbyist, beyond conveying a mere disposition, that "the member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues".

To help avoid accusations of pre-determination and ensure that division Members are free to represent their constituents as "interested parties", division Members will not sit on the Licensing Act Sub-Committee where that Sub-Committee is considering an application in that Member's division.

A Member must make a disclosure of his/her position regarding the possibility of political or structural bias, in advance, to the Licensing Act Sub-Committee which will consult with its Legal Advisor to decide if the member can participate in the decision-making.

### 8. Applications Submitted by the Council

The Council may apply for its own Premises Licences so as to licence areas of public space. Such applications must be seen to be dealt with fairly. During such an application process it is therefore important to be aware of any potential appearance of bias.

### 9. Lobbying

The Licensing Act 2003 sets out the grounds for making representations on licence applications and limits the parties which may make such representations. Local Councillors can represent the interests of their constituents by acting as "interested parties" as long as they do not have any disclosable pecuniary interest in the matter.

To avoid an appearance of bias:

- No member sitting on the Licensing Act Sub-Committee can represent one of the interested parties of the applicant. If she/he wishes to do so she/he must excuse him/herself from the membership of the Sub-Committee which is considering the application and can only address the Sub-Committee if she/he is a representative of the 'interested party'. A member may be an interested party but if he or she is then that member can not sit on the Licensing Act Sub Committee hearing the relevant matter.

## Part 4 - Licensing Act Sub-Committee Procedure Rules

- If a member who sits on the Licensing Act Sub-Committee is approached by persons wishing to lobby him/her as regards the licence application then that member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her division member or the Licensing Officers who can explain the process of decision making. If a member is to represent one of the parties, they will not be selected to serve on the Licensing Act Sub-Committee for that application.
- Members who are part of the Licensing Act Sub-Committee must avoid expressing personal opinions prior to Licensing Act Sub-Committee decision. To do so will indicate that the member had made up his/her mind before hearing all the evidence and that their decision may not be based upon the Licensing Objectives not the Licensing Authority's Statement of Licensing Policy.
- Political group meetings should never be used to decide how any members on the Licensing Act Sub-Committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration.
- Councillors must not be Members of the Licensing Act Sub-Committee if they are involved in campaigning on the particular application
- Other Members (i.e. those which do not sit on the Licensing Act Sub-Committee) need to be careful when discussing issues relating to matters which may come before the Licensing Act Sub-Committee Members as this can easily be viewed as bias/pressure and may well open that Sub-Committee Member to accusations of such. A full prohibition upon discussing such issues with Committee Members by other Members may be impractical and undemocratic.
- Members must NOT pressurise Licensing Officers to make any particular decisions or recommendations as regards applications (such as the ability to decide whether an application is frivolous or vexatious).

It should be noted that a member for a division, which would be directly affected by the applications, is most at risk of being accused of bias. Members whose division includes the application, or whose division is likely to be affected by the application, should not sit on the Licensing Act Sub-Committee considering the application but he/she may wish to act as/or represent an "interested party".

All of the above guidance also applies where an application is to be considered by the Strategic Licensing Committee.

### 10. Pre-Application/Pre-Decision Discussions

Whilst discussions between the licence applicant and the Licensing Officer prior to the submission of an application, or prior to a decision being made are often helpful to both parties, the Licensing Authority must ensure it is not open to accusations or appearance of bias. It must therefore ensure that such advice



## **Part 4 - Licensing Act Sub-Committee Procedure Rules**

and assistance is clearly identified as being such and is not any type of “predetermination”.

Members of the Licensing Act Sub-Committee should ensure that they DO NOT take part in any preapplication/pre-decision discussions and that applicants are referred to the Licensing Officer.

### **11. Who can put Items on the Committee Agenda**

Licensing Act Sub Committees will decide matters in accordance with the relevant legislation; for instance a meeting will be called following a request for a review by or an objection received from an interested party or responsible authority.

### **12. Role of the Licensing Officer**

The Licensing Officer will not generally make recommendations to the Licensing Act Sub-Committee. A summary report of the application, the representations and the Officer’s comments as to how these relate to the Licensing Act 2003, the Guidance and the local Licensing Policy Statement may be useful.

### **13. Decision Making**

Reasons for decisions made must be clearly documented so that any subsequent accusations of bias etc. can be defended. Decisions must be made according to the licensing objectives of the Licensing Act 2003 as well as the Licensing Authority’s Policy Statement.

### **14. Site Inspection**

Site inspections by Licensing Act Sub-Committee Members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias. If a site inspection is required then the reasons will need to be set out to justify the visit.

### **15. Application of Council Procedure Rules**

Council Procedure Rule 32.2 (Application to Cabinet, Committees and Sub-Committees) shall take effect subject to these Procedure Rules.

# Part 4 - Licensing and Safety Sub-Committee Procedure Rules

## LICENSING AND SAFETY SUB-COMMITTEE PROCEDURE RULES

### 1. Composition

The Licensing and Safety Sub-Committee shall comprise of 5 to 6 Members, decided by the Strategic Licensing Committee. Substitutes, as decided by the Committee, are permitted

### 2. Number of Meetings

The Licensing and Safety Sub-Committee shall meet every 4 weeks, or as and when necessary.

### 3. Quorum

The Quorum for the Licensing and Safety Sub-Committee shall be three.

### 4. Role and Function

The Licensing and Safety Sub-Committee shall be responsible for considering those functions conferred on the Council in part B of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to licensing and registrations (excluding Commons Registration), part C including functions in relation to Health and Safety at Work but limited to those set out in Annex A, and functions in relation to the power to make a closing order with respect to take away food shops under s4 (Local Government Miscellaneous Provisions) Act 1982.

### 5. Bias and Predetermination

Bias is an attitude of mind that prevents the decision maker from making an objective determination of the issues that he/she has to resolve. There is no need for proof of actual potential bias for there to be a “procedural impropriety”. It is sufficient that there is an appearance of bias. The test for bias is ‘whether a fair-minded informed observer, having considered the facts would conclude that there was a real possibility of bias’.

Where the decision to be made is quasi-judicial, as at the Licensing and Safety Sub-Committee, the key issue to ensure the legality of the decision is the ‘public perception of a probability of unconscious bias’. Members should therefore avoid participating as a member of the Licensing and Safety Sub-Committee where previous voting or statements of belief may alter that objective impression conveyed.

A member should not reach a final conclusion before he/she comes to take a decision on an issue. A member’s statements and activities should not create the impression that his/her views on a matter are fixed, and that he/she will not fairly consider the evidence or arguments presented to him/her, when he/she is making a decision.

## Part 4 - Licensing and Safety Sub-Committee Procedure Rules

'Bias' also includes the situation where it is felt that the decision maker has predetermined the case based on his/her own prejudices. An obvious example is where the impression is clearly given to, for example, members of the public or a lobbyist, beyond conveying a mere disposition, that 'the member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues'.

A member must make a disclosure of his/her position regarding the possibility of political or structural bias, in advance, to the Licensing and Safety Sub-Committee which will consult with its Legal Advisor to decide if the member can participate in the decision-making.

### 6. Pre-Application/Pre-Decision Discussions

Whilst discussions between the licence applicant and the Team Manager (Transactional Management) prior to the submission of an application, or prior to a decision being made are often helpful to both parties, the Licensing Authority must ensure it is not open to accusations or appearance of bias. It must therefore ensure that such advice and assistance is clearly identified as being such and is not any type of 'predetermination'.

Licensing and Safety Sub-Committee members should ensure that they DO NOT take part in any pre-application/pre-decision discussions and that applicants are referred to the Team Manager (Transactional Management).

### 7. Role of the Team Manager (Transactional Management)

- (a) That the Team Manager (Transactional Management) and those officers in posts above this level with line management responsibility use delegated powers to investigate and take any such action as the officer considers appropriate, including refusal of new licence applications, refusal to renew existing licences and revocation and suspension of existing licences, in relation to any matter concerning a hackney carriage or a private hire drivers licence or a vehicle licence or any matter concerning a private hire operator licence.
- (b) That where the officer referred to in paragraph 7 (a) above uses the delegated powers referred to in the said paragraph then the procedures set out in **Annex B** shall be followed.
- (c) When a matter is to be referred to the Licensing and Safety Sub-Committee, the officer referred to in paragraph 7 (a) above shall make recommendations to the Committee. A report shall be prepared by the officer summarising the application. Details of any representations received shall be included, together with, where it is appropriate to do so, the officer's comments setting out how the representations relate to relevant legislation and current licensing policy and conditions.

## **Part 4 - Licensing and Safety Sub-Committee Procedure Rules**

### **8. Decision Making**

Reasons for decisions made must be clearly documented so that any subsequent accusations of bias etc. can be defended. Decisions must be made according to the relevant legislation, policy and conditions.

### **9. Site Inspection**

Site inspections by Licensing and Safety Sub-Committee members are generally unnecessary and can put the members and the Licensing Authority at risk of accusations of bias. If a site inspection is required then the reasons will need to be set out to justify the visit.

### **10. Application of Council Procedure Rules**

Council Procedure Rule 33.2 (Application to Cabinet, Committees and Sub-Committees) shall take effect subject to these Procedure Rules.

11. The guidance notes for the holding of hearings in respect of licensing matters are attached at Annex A.

12. The matters of procedure for licensing officers are attached at Annex B.

# Part 4 - Licensing and Safety Sub-Committee Procedure Rules

## ANNEX A - PROCEDURE GUIDANCE NOTES FOR MEMBERS

1. Apologies for absence.
2. Minutes to be confirmed and signed.
3. Public Question Time.
4. Declaration of any interests by members.
5. Consideration of non-exempt agenda items (if any).
6. The Sub-Committee to resolve that in accordance with the provisions of Schedule 12A, Local Government Act 1072 and Paragraph 10.4(1) of the Council's Access to Information Procedure Rules, the public and press be excluded during consideration of the following items.

### STEPS FOR EACH CASE

7. Chairman to confirm that the applicant is happy to represent him/herself, if they have no representative present, prior to the case being heard.
8. Chairman to request Team Manager (Transactional Management) or their appointed representative to present the case and call witnesses (if any).
9. Questions may be asked of the Team Manager (Transactional Management) or their appointed representative and any witness called in the following order:
  - (i) Applicant
  - (ii) Members of the Committee
  - (iii) Legal Advisor
10. Chairman to request the Applicant to present their case to the Committee and call witnesses (if any).
11. Questions may be asked of the Applicant and any witness called in the following order:
  - (i) Team Manager (Transactional Management) or their appointed representative
  - (ii) Members of the Committee
  - (iii) Legal Advisor
12. Chairman to request the Team Manager (Transactional Management) or their appointed representative to sum up.
13. Chairman to request the Applicant to sum up.

## **Part 4 - Licensing and Safety Sub-Committee Procedure Rules**

14. The Committee will determine the application in private. The Legal Advisor will remain in the room to provide advice as required.
15. The meeting will be reconvened for the decision to be announced.
16. Chairman to advise the applicant of the appeals procedure if their application is refused.

# Part 4 - Licensing and Safety Sub-Committee Procedure Rules

## ANNEX B - MATTERS OF PROCEDURE FOR THE LICENSING DECISION MAKER

1. The officer deciding a matter will be making a quasi-judicial decision. There is a right of appeal to a court.
2. The officer making the decision shall carry out the delegated powers in consultation with a legal advisor, the Council's safeguarding lead officers for Adult and Children's Services and an appropriate officer from West Mercia Police. The officer may consult with any other officer of the Council or a representative from any other relevant external agency or organisation as the officer deciding the matter considers is appropriate.
3. The officer must of course act fairly. With the exception of circumstances where immediate suspension is held to be the appropriate course of action, the licence holder shall be informed of the case against them and be given an opportunity to make representations before any decision is made. Where immediate suspension is applicable, the licence holder shall be informed after the decision has been made but will nonetheless be given an opportunity to make representations.
4. It is open to the local authority to allow only written representations and this is how the officer deciding the matter shall deal with each case unless the officer considers the circumstances also warrant an oral hearing. The officer shall write to the relevant licence holder stating the case against them. The correspondence shall set out all relevant information and give to the licence holder a reasonable time (usually 10 working days) to reply in writing with their representations.
5. Following receipt of the licence holder's representations, or upon expiration of the time limit for replies, the officer shall, unless it is necessary to seek further information as a result of the representations already received, make a decision taking all relevant matters into account.
6. Where the officer considers it is necessary or appropriate, a case shall be referred to the Licensing and Safety Sub-Committee for consideration and decision.

## Part 4 – Overview and Scrutiny Procedure Rules

### OVERVIEW AND SCRUTINY PROCEDURE RULES

#### 1. What Will Be the Number and Arrangements for Scrutiny Committees?

The Council will have the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

- (a) The Council will have 4 committees, which will perform Overview and Scrutiny functions on behalf of the Council;
- (b) The terms of reference for each committee will be as set out in Table 1 at the end of these Rules.
- (c) Informal (i.e. non-decision-making) meetings of the Scrutiny Committee Chairmen (Scrutiny Chairs Group) will from time to time be held to discuss the effectiveness of the Scrutiny function and other matters of relevance with a view to advising the Chief Executive on any amendments required to the Council's scrutiny arrangements. The Leaders of all the political groups, Vice Chairmen of Scrutiny Committees, the Statutory Scrutiny Officer and appropriate Chief Officers will be invited to attend.
- (d) Where matters fall within the remit of more than one Scrutiny Committee or Sub-Committee, the Chief Executive, in consultation with the Scrutiny Chairs' Group shall determine which of them will assume responsibility for any particular issue
- (e) The Chief Executive shall receive requests from the Executive and/or the Council for reports from Scrutiny Committees and allocate them, in consultation with the Scrutiny Chairs Group, to one or more of the Scrutiny Committees.
- (f) There will be a Members' Question Time at the commencement of each Scrutiny Committee.
- (g) A protocol on Task and Finish Groups is set out in Part 5.

#### 2 Who May Sit on Overview and Scrutiny Committees / Task and Finish Groups?

All councillors except members of the Executive may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

#### 3. Co-optees

Each Scrutiny Committee shall be entitled to appoint a number of people as non-voting co-optees as and when required, for example at a themed meeting or to join a Task and Finish Group.



## Part 4 – Overview and Scrutiny Procedure Rules

The People Overview and Scrutiny Committee shall be entitled to appoint permanent co-opted members for education matters in accordance with paragraph 4.

In all cases co-optees should be appointed to add value to the work of the Overview and Scrutiny Committees so that they are supported by those with specialist knowledge and expertise, appropriate to the subject under review.

### 4. Education Representatives

The People Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England Diocese representative;
- (b) 1 Roman Catholic Diocese representative; and
- (c) 2 Parent Governor representatives.

The committee in this paragraph is a committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

### 5. Meetings of the Scrutiny Committees

Ordinary meetings of each Scrutiny Committee in each year shall be set out in the Council Diary. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chair of the relevant Scrutiny Committee by any 2 members of the relevant Scrutiny Committee or by the Chief Executive if he/she considers it necessary or appropriate.

### 6. Quorum

The quorum for a Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## Part 4 – Overview and Scrutiny Procedure Rules

### 7. Who Chairs Scrutiny Committee Meetings?

Chairs of Scrutiny Committees will be drawn from among the councillors sitting on the committee, and subject to this requirement, the committee may appoint such a person as it considers appropriate as Chair. Best practice however dictates that the Chair of the Committee is not normally a member of the controlling political group(s).

### 8. Work Programme

Each Overview and Scrutiny Committee will be responsible for setting its own work programme. In doing so, they shall take into account the wishes of all members serving on that Committee, particularly those who are not members of the largest political group on the Council.

### 9. Agenda Items

- (a) Any member of the Council shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of an Overview and Scrutiny Committee to be included on the agenda for a future meeting of one of the Committees. On receipt of such a request, the Chief Executive will refer the request, in consultation with the Scrutiny Chairs Group, to the next available meeting of the relevant Overview and Scrutiny Committee,
- (b) The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Scrutiny Committee within 2 months of receiving it.

### 10. Policy Review and Development

- (a) The role of the Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Scrutiny Committees or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference. 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

## Part 4 – Overview and Scrutiny Procedure Rules

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.

### 11. Reports from Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Executive (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).
- (b) If the Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then in respect of Policy Review and Development only (not call-in), up to one minority report may be prepared by the Minority Group(s) and submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Scrutiny Committee within 2 months of it being submitted to the Proper Officer.

### 12. Making Sure That Scrutiny Reports are Considered by the Executive

- (a) The agenda for Executive meetings shall include an item entitled 'Consideration of Reports from Overview and Scrutiny'. The reports of Scrutiny Committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's policy deliberations on a substantive item on the agenda) within 2 months of the Executive receiving it.
- (b) Once a Scrutiny Committee has completed its deliberations on matters (where appropriate) it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 4 weeks in which to respond to the Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Executive to the Scrutiny proposals.  
Or
- (c) Where a Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Leader has delegated decision-making power to another individual Member of the Executive then the Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Scrutiny Committee shall serve a copy on

## Part 4 – Overview and Scrutiny Procedure Rules

the Proper Officer and the Leader. If the member with delegated decision-making power does not accept the recommendations of the Scrutiny Committee, then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision-making power and responding to the report in writing to the Scrutiny Committee. The Executive Member to whom the decision-making power has been delegated will respond to the Scrutiny Committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting of the Scrutiny Committee to present their response.

- (d) Only 5 reports from Scrutiny will be considered at each meeting of the Executive
- (e) Scrutiny Committees will in any event have access to the Executive's Forward Plan and Timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

### 13. Rights of Scrutiny Committee Members to Documents

- (a) In addition to their rights as councillors, members of 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### 14. Members and Officers Giving Account

- (a) Any 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 (other) member of the Executive, the Head of Paid Service and/or any Chief or Senior Officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions and/or their performance in relation to those 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.
- (b) Where any Member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that committee will inform the Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to

## Part 4 – Overview and Scrutiny Procedure Rules

the Panel will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance to take place.

### 15. Attendance by Others

- (i) A Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions and provide reasonable expenses for doing so. 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.
- (ii) If there is insufficient time to hold a meeting for the Committee to decide who to invite to attend the meeting then this decision shall be taken by the Chairman, Vice Chairman and the relevant Director.

*Attendance is of course entirely optional.*

### 16. Call-In

- (a) When a decision is made by the Executive an individual member of the Executive or a committee of the Executive or a key decision is made by an officer with delegated authority from the Executive or under an area committee or under joint arrangements, the decision shall be published and entered into a register to be known as the 'Decisions List', and shall be available at the main offices of the Council normally within 2 working days of being made. Such decisions should also be published to members by means of a list available for inspection by Members via e-mail. In accordance with Members' requirements, the Decisions List (or relevant part of the list) shall also be sent in writing by post, if requested, but such delivery shall not affect the timescales for 'calling-in'.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days (i.e. on the 6<sup>th</sup> working day) after the publication of the decision, unless it is called in.
- (c) During that period, the Proper Officer shall call-in a decision for a Scrutiny Committee if so requested in writing by:
  - (i) any 12 members; or

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- (ii) Group Leaders (or persons authorised by them) may ‘call-in’ items on behalf of all members of their group by communicating a ‘group call-in’ request to the Proper Officer, which request shall be in writing (or e-mail), or if an oral request, confirmed in writing (or e-mail) within 3 days. It will be for Group Leaders to ensure that they have the consent of all group members to the exercise of a ‘group call-in’ request. Such requests shall be treated as if individual call-in requests had been received from each and every member of the Group; or
- (iii) the Chair of the relevant Scrutiny Committee.

To effect a call in as referred to above the Notice to the Proper Officer shall include the reasons for the call in of the executive decision and what alternative course of action (unless the preferred course of action is to do nothing – in which this will be stated in the Notice) is proposed.

The Monitoring Officer shall in consultation with the Chair or Vice Chair of the relevant Scrutiny Committee determine within 3 working days whether the call in has been made in accordance with the previous paragraph.

The Proper Officer shall then notify the decision-taker of the call-in. The call-in decision will go to the next meeting of the relevant Scrutiny Committee, or to a special meeting, if necessary, on grounds of urgency.

If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision-maker they shall then reconsider within a further 15 working days, amending the decision or not, before adopting a final decision.

- (d) If, following consideration of the decision, the Scrutiny Committee does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Scrutiny meeting.
- (e) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the Policy Framework, or contrary to, or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council’s views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 15

## Part 4 – Overview and Scrutiny Procedure Rules

working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council request.

- (f) If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.

### 17. Call-in and Urgency

The call-in procedure set out above shall not apply where the decision being taken by the Executive or those with delegated authority is urgent and one of the following applies:

- (i) the item was so identified in the Report of the decision-maker when the item was considered and the decision made;
- (ii) the item has been identified as urgent by a Director or the Chief Executive and a note of the reason thereof is included in the decision summary.
- (iii) the item being already suspended by virtue of paragraph 16(c) is nevertheless identified as urgent by the Chief Executive following consultation with Group Leaders and a note of the reason therefore is included in the summary sheet. If certified as 'urgent' and entered into the Decisions List kept by the Monitoring Officer and noted therein as an 'urgent item', then such decision shall take effect on the date of such entry into the Decisions List.

### 18. The Party Whip

Scrutiny is not an opposition role; it is a cross-party duty and should not therefore be adversarial or party political. A party whip could be taken to mean "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 he/she speak or vote in any particular manner".

When considering any matter in respect of which a member of a 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 Panel's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

## Part 4 – Overview and Scrutiny Procedure Rules

### 19. Procedure at Scrutiny Committee Meetings

- (a) Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
  - (iv) responses of the Executive to reports of the Scrutiny Committee;
  - (v) updates/progress reports (if any) on previous recommendations; and
  - (vi) the business otherwise set out on the agenda for the meeting.
- (b) Where the Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at the committee 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.
- (c) Following any investigation or review, the committee shall prepare a report for submission to the Executive (Cabinet) and/or Council as appropriate and shall make its report and findings public.

### 20. Matters Within the Remit of More Than One Scrutiny Committee

- (a) Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, joint working between those panels will be encouraged.
- (b) Joint working between the scrutiny committees will take place at a joint themed meeting where the matter will be considered (Each Scrutiny Committee will reach its own view on the matter). Or through a joint task and finish group that will consist of members of the panels involved and will undertake their work outside of the Scrutiny Panel meetings, reporting back to a Joint themed meeting (Each Scrutiny Committee will reach its own view on the matter).
- (c) If it is decided that a Scrutiny Panel will conduct the review individually then they shall invite the Chair of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.



## Part 4 – Overview and Scrutiny Procedure Rules

- (d) Before submitting its findings to the Executive (Cabinet) and/or Council for consideration, the report of the reviewing Scrutiny Committee shall be considered by the other Scrutiny Committee for comment. Those comments shall be incorporated into the report which is then sent to that body for consideration.

### Table 1: Overview and Scrutiny Committees: Remit

Overview and Scrutiny should not be political and should have regard to the Centre for Governance and Scrutiny's four principles of good scrutiny:

- provide constructive “critical friend” challenge
- amplify the voice and concerns of the public
- be led by independent people who take responsibility for their role
- drive improvement in public services

All Overview and Scrutiny Committees will:

- Start from a position and a focus on the delivery of outcomes for Shropshire communities and the Council's priorities as set out within The Shropshire Plan
- Set their own work programme based on their remit and a clear view of the value that they will add through their work
- Work together on topics that cut across more than one committee's remits
- Identify the approaches that they want to take to carry out their work e.g. task and finish groups, thematic committee meetings, whole committee investigations
- Consider how the Council is working with partners at all levels to deliver the priorities and strategic objectives
- Make evidence-based recommendations, triangulating the intelligence and insights gathered through their investigations
- Investigate topics before decisions have been made by the decision makers
- Review the impact and progress following the implementation of decisions
- Respond to Call-ins for topics that are within their remit
- Report on the impact and added value they have achieved each year to Council

## Part 4 – Overview and Scrutiny Procedure Rules

Committee Title	Outcomes that the Overview and Scrutiny Committee is responsible for
Transformation and Improvement Overview and Scrutiny Committee	<p>Overall Council Performance (including financial, quality and activity)                      Effectiveness and delivery of the Improvement and Transformation programme                      Support Services including: Finance, ICT, HR, OD, Legal and Member Services</p> <p>Priority:                      Healthy Organisation</p>
Health Overview and Scrutiny Committee	<p>The Council’s duty of health and wellbeing including needs assessments, strategies, prevention, and commissioning)                      Planning and delivery of Health Services (HOSC)                      Integrated Care System (including Council services)</p> <p>Priorities:                      Health People                      Healthy Economy</p> <p>External focus:                      Health Trusts which are based in, impact on or provide services in the Shropshire Council Area                      Integrated Care System in the Shropshire Council Area</p>
People Overview and Scrutiny Committee	<p>Services for adults including:                      Social Care,                      Safeguarding,                      Special needs services,</p> <p>Services for children including:                      Social Care                      Safeguarding                      Special needs services</p>

## Part 4 – Overview and Scrutiny Procedure Rules

Committee Title	Outcomes that the Overview and Scrutiny Committee is responsible for
	<p>Schools and learning</p> <p>Priority: Healthy People</p> <ul style="list-style-type: none"> <li>•</li> </ul>
<p>Economy and Environment Overview and Scrutiny Committee</p>	<p>Economic growth Highways infrastructure and connectivity Housing (including affordable and social housing) Climate strategy and action plan Culture and Leisure Flooding and water management 16+ Education and learning and skills Community Safety</p> <p>Priorities: Healthy Economy Healthy Environment</p>

# Part 4 – Overview and Scrutiny Procedure Rules

## SENIOR OFFICER EMPLOYMENT PROCEDURE

### 1.0 General

- 1.1 Staff within the organisation are employed on behalf of the whole Council and not by parts of the organisation or individuals.
- 1.2 The employment or engagement of all staff will be in compliance with the law and the policies and practices of the Council.
- 1.3 Persons employed or engaged by contractors under specific agreements or contracts are not staff of the Council but are employees engaged by the Contractor.
- 1.4 The Council, as outlined in the Constitution will approve the overall management structure and provide the necessary resources to support it.
- 1.5 Generally (except for certain senior staff appointments and dismissals) the function of appointment and dismissal of and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the Authority by the Chief Executive - Head of the Paid Service or, in most cases, by an officer nominated by him/her.
- 1.6 In relation to staff employed in Community, Voluntary Controlled, Community Special and Maintained Schools and Nursery schools, the responsibility for appointment, discipline and dismissal rests with the governing body and the Local Authority.
- 1.7 In Shropshire Council Chief Officer means employees whose contract of employment is subject to Joint Negotiating Committee (JNC) for Chief Officers terms and conditions. However, for specific purposes there are statutory definitions of Chief Officer in accordance with the Localism Act 2011 and as set out in more detail within the Annex A.

### 2.0 Definitions

- 2.1 This section sets out the definition of terms used for the purposes of these Rules in respect of particular posts.
- 2.2 “Chief Officer” means each of the following:
  - 2.2.1 Chief Executive - Head of Paid service designated under section 4(1) of the Local Government and Housing Act 1989.
  - 2.2.2 Assistant Director of Legal and Governance (Monitoring Officer) designated under section 5(1) of that Act.
  - 2.2.3 Executive Director of Resources (S.151 Officer) having responsibility for the purposes of section 151 of Local Government Act 1972
  - 2.2.4 “Statutory Chief Officer” has the meaning as set out in section 2 (6) of the Local Government and Housing Act 1989 and for this Council will be the

## Part 4 – Overview and Scrutiny Procedure Rules

Executive Director of People, Executive Director of Place, Executive Director of Health Wellbeing and Prevention (also known as “Executive Directors”).

2.2.5 “Non - Statutory Chief Officer” means a person who reports to the Chief Executive - Head of the Paid Service or who is directly accountable to the local authority or any committee or subcommittee of the authority as set out in Section 2 (7) of the Local Government and Housing Act 1989 and for this Council will be any other Director appointed by the Council who are not Statutory Chief Officers.

2.2.6 “Deputy Chief Officer” means a person who for most or all of his/her duties is required to report direct, or is directly accountable, to a statutory or non-statutory Chief Officer as set out in section 2 (8) of the 1989 Act (excluding persons whose duties are solely secretarial, clerical or in the nature of support services). See Annex A.

2.3 “Independent Panel” means a panel consisting of at least two Independent Persons. The Independent Persons must already be acting in that capacity either within the Council or at another local authority, and be invited in accordance with the following priority order:

1. a relevant Independent Person who has been appointed by the authority and who is a local government elector;
2. any other relevant Independent Person who has been appointed by the authority;
3. a relevant Independent Person who has been appointed by another authority or authorities

The Panel should comprise solely independent persons, rather than incorporating elected members.

2.4 “Independent Person” means someone appointed under section 28(7) of the Localism Act 2011.

2.5 “Dismissal” means when an employment contract is terminated by the employer for the reasons of misconduct, capability, or a legal reason for ‘some other substantial reason’, otherwise than by mutual agreement. For the avoidance of doubt this does not include a dismissal on the grounds of redundancy or ill health retirement.

### 3.0 Recruitment and Appointment of Staff

3.1 All recruitment and appointment of staff will be conducted in accordance with the law, the Council’s policies and procedures and the Council’s Finance Procedure Rules.

## **Part 4 – Overview and Scrutiny Procedure Rules**

### **4.0 Responsibility of the Chief Officer Employment Panel**

- 4.1 The Chief Officer Employment Panel supports, amongst other things as set out below, the recruitment of the Chief Executive – Head of Paid Service. Membership of the Panel shall comprise the Leaders of the three main political parties (or their nominees), and two other members subject to the proportionality rules and the Assistant Director of Workforce and Improvement or their nominated deputy. The Chair of the Panel will be the Leader of the Council or his/her nominated deputy. Where the appointment isn't relating to the Chief Executive – Head of Paid Service, he/she will form part of the panel membership.
- 4.2 The quorum for each meeting of the Committee/Panel is three, including a member of the Administration and main opposition party.
- 4.3 For the purposes of this procedure, the Proper Officer shall be the Chief Executive - Head of Paid Service, except where the appointment/ dismissal relates to the Chief Executive - Head of Paid Service in which case the Proper Officer shall be the Assistant Director of Workforce & Improvement.
- 4.4 The Panel is also responsible for hearing and determining any appeals from Chief Officers as appropriate under the Council's discipline, grievance, performance management and grading policies, the suspension of sick pay and the review and determination of matters relating to contracts of employment. In determining these matters, the Panel will have regard to the appropriate provisions of these Rules. The Panel may agree to discharge some of these functions through a Sub- Committee.

### **5.0 Appointment of Head of the Paid Service.**

5.1 The appointment is subject to specific requirements as set out below.

5.2 The Chief Officer Employment Panel shall:

- a) agree a statement specifying the duties and any qualifications or qualities to be sought in the person to be appointed.
- b) agree 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.
- c) agree for a copy of the statement mentioned above to be sent to any person on request.
- d) where a post has been advertised as required above, the panel will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- e) Panel to agree interview arrangements e.g. stakeholder panels
- f) Following the interview of candidates, the panel will come to a view as to the most suitable person for the position.

## Part 4 – Overview and Scrutiny Procedure Rules

g) Where following the interviews the panel is of the view that there is no suitable candidate, it will re-advertise the post.

5.3 The Assistant Director of Workforce & Improvement has, within the period specified in the notice under paragraph 5.4 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or the Assistant Director of Workforce & Improvement has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel

5.4 The period within which any objection to the making of the offer is to be notified to the Assistant Director of Workforce & Improvement. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.

5.5 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the panel will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If the full Council approves the recommendation, then a formal offer of appointment can be made.

5.6 Where full Council does not approve the recommendation of the panel, they shall indicate how they wish to proceed.

### **6.0 Appointment of Statutory Chief Officers, Assistant Director of Legal and Governance (Monitoring Officer) designated under section 5(1) of that Act and Executive Director of Resources (S.151 Officer) having responsibility for the purposes of section 151 of Local Government Act 1972**

6.1 Where the Council is appointing the officers to which this section applies the Chief Officer Employment Panel, or their nominated deputies shall be convened and:

- a) agree a statement specifying the duties and any qualifications or qualities to be sought in the person to be appointed.
- b) agree 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.
- c) agree for a copy of the statement mentioned above to be sent to any person on request.
- d) where a post has been advertised as required above, the panel will select from the applications a short list of qualified candidates and will then interview those included in the short list.

## Part 4 – Overview and Scrutiny Procedure Rules

- e) Panel to agree interview arrangements e.g., stakeholder panels
  - f) Following the interview of candidates, the panel will come to a view as to the most suitable person for the position. Cabinet will be notified of the selected candidate.
  - g) Where following the interviews the panel is of the view that there is no suitable candidate, it will re-advertise the post.
- 6.2 The period within which any objection to the making of the offer is to be notified to The Assistant Director of Workforce & Improvement. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.
- 6.3 The Assistant Director of Workforce & Improvement has, within the period specified in the notice under paragraph 6.2 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or the Assistant Director of Workforce & Improvement has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel
- 6.4 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the panel will recommend that person for appointment.

### **7.0 Employment responsibility of Chief Officers (Non-Statutory), Deputy Chief Officers and below to Chief Officer Service Manager Level.**

- 7.1 Employment responsibilities under the Council's Human Resources policies in respect of posts below Statutory Chief Officer to Service Manager levels will be the responsibility of the Chief Executive - Head of the Paid Service or nominated officer and will be exercised in accordance with the scheme of delegation and relevant personnel policies.
- 7.2 Appointments may not be made by Councillors.
- 7.3 A Committee (the Appeals Committee) will be appointed to hear an appeal by an Officer employed by the Council as provided in the Human Resource Policies of the Council from time to time.



## Part 4 – Standing Orders relating to Staff

### **8.0 Disciplinary Action Relating to the Head of the Paid Service, Monitoring Officer or S151 Officer in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (the Regulations) (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Chief Executive Employment Procedure Rules 2008.**

- 8.1 No disciplinary action in respect of the above Chief Officers may be taken by or on behalf of the Authority) other than in accordance with the provisions set out in Schedule 3 (or provisions to the like effect) of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 8.2 The Chief Executive - Head of Paid Service, Assistant Director Legal & Governance (Monitoring Officer) and Executive Director of Resources (S151) Officer may be suspended (in accordance with paragraph 8.3 below) while an investigation takes place into alleged misconduct or incapability. Suspension does not itself constitute disciplinary action and does not imply guilt. Any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- 8.3 The responsibility for implementing the suspension of the Chief Executive – Head of Paid Service will be the Assistant Director of Workforce & Improvement in consultation with the Leader of the Council and the responsibility for implementing the suspension of the Monitoring Officer and Section 151 Officer will be the Chief Executive – Head of Paid Service and the Assistant Director of Workforce & Improvement.
- 8.4 Where an allegation is made relating to the conduct of these officers the matter will be considered by the Chief Officer Employment Panel.
- 8.5 Where the Chief Officer Employment Panel determines that a matter requires more detailed investigation, this will be undertaken by an independent investigator.
- 8.6 The Chief Officer Employment Panel will determine from the investigation report whether further action is required. Where the decision is any action short of dismissal, the decision will be taken by the Panel itself.
- 8.7 Where the recommendation is for dismissal, an Independent Panel, as defined at paragraph 2.4 above, must be approved, and full Council approval is required.

## **Part 4 – Standing Orders relating to Staff**

### **9.0 Dismissal of Head of the Paid Service, Monitoring Officer or S151 Officer.**

- 9.1 An Independent Panel must be convened in accordance with Schedule 3 the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) having considered and recommend the dismissal of an Officer to whom this section applies. The panel must be appointed at least 20 working days before a meeting of Council is held to consider any dismissal.
- 9.2 Assistant Director of Workforce and Improvement on behalf of the Independent Panel will submit a report to Council on the recommended action.
- 9.3 Notice of dismissal must not be given until approval of the Full Council.

### **10. Disciplinary Action relating to Statutory Chief Officers**

- 10.1 The Chief Officers Employment Panel has power to decide whether to investigate any allegation of misconduct by a Statutory Chief Officer and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.
- 10.2 Officers may be suspended whilst an investigation takes place into alleged misconduct. The decision to suspend on full pay shall be made by the Chief Executive - Head of Paid Service or their designated nominee in consultation with the Leader of the Council and/ Deputy Leader and the Assistant Director of Workforce & Improvement.
- 10.3 The Chief Officer Employment Panel may decide to dismiss or take disciplinary action short of dismissal. This can only take effect where no well-founded objection has been made by any member of the Cabinet. Any objection needs to relate to the Council's disciplinary, capability and related procedures and policies.
- 10.4 Assistant Director of Workforce and Improvement on behalf of the Chief Officer Employment Panel will submit a report to Cabinet on the recommended action.
- 10.5. The period within which any objection to the proposed action is to be notified to The Assistant Director of Workforce & Improvement. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.

## Part 4 – Standing Orders relating to Staff

10.6 The Assistant Director of Workforce & Improvement has, within the period specified in the notice under paragraph 10.5 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the proposed action; or the Assistant Director of Workforce & Improvement has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel

10.7 In the event that a reasoned objection is received, the Assistant Director of Workforce & Improvement shall refer the matter to a specially convened meeting of the Chief Officers Employment Panel (the members of the specially convened Panel must be the same members who recommended the dismissal/disciplinary action) and the decision of this specially convened Panel

### 11. Grievances

11.1 Grievances made by all Chief Officers and Deputy Chief Officers including the Chief Executive - Head of Paid Service, Executive Director of Resources (S151) and Assistant Director Legal and Governance (Monitoring Officer) will be dealt with in accordance with the Council's relevant procedures at the relevant time or as set out in the Chief Officer Handbook Joint Negotiation Committee in force at the relevant time.

## Annex A

**Statutory and non-statutory chief officer and deputy chief officer posts are defined in the Localism Act 2011:**

The Localism Act 2011, chapter 8, section 43(2) states:

In this Chapter "chief officer", in relation to a relevant authority, means each of the following:

1. the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
2. its monitoring officer designated under section 5(1) of that Act;
3. a statutory chief officer mentioned in section 2(6) of that Act;
  - a. Executive Director of People

## Part 4 – Standing Orders relating to Staff

- b. Executive Director of Health Wellbeing and Prevention.
- c. Executive Director of Place
- d. The officer having responsibility for the purposes of section 151 of Local Government Act 1972 - Executive Director of Resources

- 4. a non-statutory chief officer mentioned in section 2(7) of that Act;
  - a. Person whom the Head of Paid Service is directly responsible for\*.
  - b. Person who, as respects all or most of his post, is required to report directly or is directly accountable to the head of paid service\*.
  - c. Any person, who all or most of duties of the post is required to report directly or is directly accountable to the local authority themselves or any committee or subcommittee of the local authority.  
(\*excluding anyone who duties are secretarial/clerical/in the nature of support services).

- 5. a deputy chief officer mentioned in section 2(8) of that Act.
  - a. person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers:
    - i) All of Executive Director of People direct reports
    - ii) All of Executive Director of Health Wellbeing and Prevention direct reports
    - iii) All of Executive Director of Resources direct reports
    - iv) All of Executive Director of Place direct reports
    - v) All of Assistant Director of Transformation and Efficiency direct reports

## TANDING ORDERS RELATING TO STAFF

- 1. In this Standing Order:

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‘the 1989 Act’ means the Local Government and Housing Act 1989;

‘the 2000 Act’ means the Local Government Act 2000;

‘disciplinary action’ has the same meaning as the Local Authorities (Standing Order) (England) Regulations 2001;

‘Cabinet’ and ‘Leader’ have the same meaning as ‘Executive’ and ‘Executive Leader’ have in Part IA of the 2000 Act;

‘member of staff’ means a person appointed to or holding a paid office or employment under the authority; and

‘proper officer’ means an officer appointed by the authority for the purposes of the provisions of this part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the authority, must be discharged on behalf of the authority by the officer designated under section 4(1) of the 1989 Act (designation and report of Head of Paid Service) as the Head of the authority’s Paid Service or by an officer nominated by him.
3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against :
  - (a) the officer designated as the Head of the authority’s Paid Service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
4.
  - (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as Head of the authority’s Paid Service, the authority must approve that appointment before an offer of appointment is made to that person.
  - (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the Head of the authority’s Paid Service, as the authority’s Chief Finance Officer, or as the authority’s Monitoring Officer, the authority must approve that dismissal before notice of dismissal is given to that person.
5. (1) In this paragraph, ‘appointor’ means, in relation to the appointment of a person as an officer of the authority, the authority, or where a committee, sub-committee or officer is discharging the function of appointment on

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behalf of the authority, that committee, sub-committee or officer, as the case may be.

- (2) An offer of an appointment as an officer referred to in sub-paragraphs (a), (b), (c) or (d) of paragraph 3 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 the authority 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 Leader of the Council on behalf of the Cabinet to the Proper Officer; and
  - (c) either:
    - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other 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 within that period from the Leader; or
    - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6. (1) In this paragraph, 'dismissor' means, in relation to the dismissal of an officer of the authority, 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.

- (2) Notice of the dismissal of an officer referred to in sub-paragraphs (a), (b), (c) or (d) of paragraph 3 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 the authority 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

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- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
  - (c) either:
    - (i) the Leader has, within the period specified in the notice under sub-paragraph b(iii), notified the dismissor that neither 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 within that period from the Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

### Standing Orders Relating to Disciplinary Action

1. In the following paragraphs -
- (a) “the 2011 Act” means the Localism Act 2011(b);
  - (b) “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(c);
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (d) “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;
  - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority; (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the Chief Finance Officer, Head of the authority’s Paid Service or Monitoring Officer, as the case may be.
2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

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3. The authority must 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.
4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order -
  - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular -
  - (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.