

# PART 4

## RULES OF PROCEDURE

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<sup>1</sup> Amendment approved 14 December 2020

<sup>2</sup> Amendment approved 30 April 2020; previous rule 11 deletion made 7 May 2021, Addition made 22 May 2023



## **RULE 1 COUNCIL PROCEDURE RULES (STANDING ORDERS)**

### **1. ANNUAL MEETING OF THE COUNCIL**

#### **1.1 Timing and business**

- (i) 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. This meeting will in addition to the ordinary business of the annual meeting:
  - (a) Elect the Leader of the Council
  - (b) Be notified by the Leader of the Council of their Cabinet, to include the names and portfolios and who has been appointed the Deputy Leader.<sup>3</sup>
- (ii) In any other year, the annual meeting will take place in May and conduct the ordinary business of the annual meeting.<sup>4</sup>
- (iii) The ordinary business of the annual meeting will be<sup>5</sup>:-
  - (a) receive apologies for absence
  - (b) elect a person to preside if the Chairman of the Council is not present (a member of Cabinet may not be appointed);
  - (c) elect the Chairman of the Council (a member of Cabinet may not be appointed);
  - (d) elect the Vice-Chairman of the Council;
  - (e) approve the minutes of the last ordinary meeting or of any extraordinary or other meeting since then;
  - (f) receive any announcements from the Chairman and/or Head of the Paid Service;
  - (g) [Deleted]<sup>6</sup>
  - (h) appoint at least one Overview and Scrutiny Panel, a Standards Committee and such other panels and committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);

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<sup>3</sup> Amendment approved 24 July 2014

<sup>4</sup> Amendment approved 16 December 2010, updated 30 April 2020, deleted 6 August 2020

<sup>5</sup> Amendment approved 16 December 2010, updated 6 August 2020

<sup>6</sup> Amendment approved 16 December 2010

- (i) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (j) agree a programme of ordinary meetings of the Council for the year;
- (k) receive any declarations of interest from members;
- (l) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6<sup>7</sup>;
- (m) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2<sup>8</sup>;
- (n) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (o) receive petitions requiring debate at Full Council submitted in accordance with the Councils Petition Scheme<sup>9</sup>, and public questions in accordance with Procedure Rule 9A<sup>1011</sup>;
- (p) consider motions<sup>12</sup>;
- (q) consider any business set out in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

## 1.2 Selection of Councillors on Committees and Panels

At the annual meeting, the Council will:-

- (a) decide which committees and panels should be established for the ensuing municipal year;
- (b) decide the terms of reference for those committees/panels;

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<sup>7</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>8</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>9</sup> Amendment approved 29 July 2010

<sup>10</sup> Amendment approved 25 February 2010

<sup>11</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>12</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (c) decide the allocation of seats and position of Chairman and Vice Chairman<sup>13</sup> to political groups in accordance with the political balance rules where appropriate;
- (d) receive notification<sup>14</sup> of councillors to serve on each committee and panel and to serve as Chairman and Vice Chairman from the political groups<sup>15</sup>; and
- (e) appoint to those committees and panels except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. ORDINARY MEETINGS OF THE COUNCIL

2.1 <sup>16</sup>The business of the meeting will be as follows:

- (a) receive apologies for absence
- (b) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (c) approve the minutes of the last meeting and of any extraordinary or other meeting since then;
- (d) receive any announcements from the Chairman and/or the Head of Paid Service;
- (e) receive any declarations of interest from members;
- (f) receive questions from and provide answers to, Councillors in relation to matters which, in the opinion of the person presiding at the meeting, accord with the provisions of Procedural Rules 8.4 and 8.6;
- (g) receive reports from Cabinet members with portfolio holder responsibilities in accordance with Procedure Rule 8.2;
- (h) consider recommendations from Cabinet, the Overview and Scrutiny Panel and committees such recommendations to be presented by the Chairman of those bodies or their nominated representative;
- (i) receive petitions requiring debate at full Council submitted in accordance with the Council's Petition Scheme<sup>17</sup>, and public questions in accordance with Procedure Rule 9A<sup>18</sup>;

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<sup>13</sup> Amendment approved 25 February 2010

<sup>14</sup> Amendment approved 25 February 2010

<sup>15</sup> Amendment approved 25 February 2010

<sup>16</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>17</sup> Amendment approved 29 July 2010

- (j) consider motions;
- (k) consider any other business specified in the notice covering the meeting in the order in which it appears in the Council summons but that order may be varied at the discretion of the Chairman or by resolution of the Council.

2.2 At ordinary meetings, the Council will only deal with business that is set out on the summons, unless the Chairman decides that a matter is urgent. If the Chairman decides that a matter is urgent he/she will announce at the beginning of the meeting after apologies have been announced that an extra item is to be placed before the Council and will explain why the matter is so urgent. The reasons will be recorded in the minutes of the meeting.

2.3 The order of business set out in paragraph 2.1 above <sup>19</sup> may be changed:

- (a) by the Chairman with the Council's permission or
- (b) by resolution passed by the Council. The motion will be put without discussion, and does not have to be in writing.

### 3. EXTRAORDINARY MEETINGS

#### 3.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:-

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of presenting the requisition.

#### 3.2 Business

The summons to an extraordinary meeting of the Council shall set out the business to be considered thereat and no business

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<sup>18</sup> Amendment approved 25 February 2010

<sup>19</sup> Amendment approved 30 April 2020, deleted 7 May 2021

other than that set out in the summons shall be considered at that meeting.

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

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

#### **5. NOTICE OF AND SUMMONS TO MEETING**

5.1 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.<sup>21</sup>

5.2 At least five clear days before a meeting, the Chief Executive will send a summons to every member of the Council by such means as are appropriate including electronic delivery. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available<sup>22,23</sup>

#### **6. CHAIRMAN OF MEETING**

6.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Whenever the Chairman rises during a discussion or a debate a member then standing shall resume his/her seat and the Council shall be silent. Where these Rules apply to Cabinet, committee and panel meetings, references to the Chairman also include the Chairman of those bodies.

#### **7. QUORUM**

7.1 The quorum of a meeting of full Council will be one quarter of the whole number of members. If during any meeting the number of members present falls below that sufficient for a quorum, the Chairman must adjourn the meeting. 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 of the Council.<sup>24</sup>

#### **8. QUESTIONS BY MEMBERS**

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<sup>20</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>21</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>22</sup> Amendment approved 29 July 2010

<sup>23</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>24</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- 8.1 Every member of the Cabinet shall present a report to each ordinary meeting of the Council on matters of interest for which they have responsibility that have arisen since the last ordinary meeting of the Council.
- 8.2 A member of the Council may, without first giving notice, ask any Member of the Cabinet questions about any matter which falls within the portfolio of that Cabinet member.<sup>25</sup>
- 8.3 The Council will set aside a maximum of 60 minutes for members to put questions under Procedure Rule 8.2.
- 8.4 The Council will set aside a maximum of 20 minutes for the Leader of the main opposition group (or his/her nominated representative) to put questions to the Leader.
- 8.5 An answer under 8.2 and 8.4 above may take the form of:-
- (a) A direct 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, a written answer circulated to all members of the Council always providing that where the reply to a question may reveal exempt or confidential information, the question can only be answered after the Council has decided whether to exclude the media and public from the meeting.

**8.6 Written questions at full Council**

A member of the Council who gives written notice, via the Chief Executive no later than the third working day before the date of the meeting (not including the day on which the notice is given or the day of the meeting) may ask the Chairman, a member of the Cabinet, or the Chairman of any committee, any question on any matter in relation to which the Council has powers or duties or which affects the district

- 8.8 The Chief Executive may allow any question asked under this Procedure Rule if:
- (a) the subject matter of the question relates to the responsibilities of the person who is asked to reply to it; and

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<sup>25</sup> Amendment approved 17 June 2020



- (b) the question touches clearly upon a matter over which the Council possesses a power or duty, or which affects substantially the interests of the people of the district.

8.9 Unless the Chairman decides otherwise, every permissible question shall be asked and answered without debate but any member who receives an oral answer may ask one supplementary question of the member who answered. The supplemental question must arise directly out of the original question or the reply and will be limited to 2 minutes.

## 9. PETITIONS<sup>26</sup>

9.1 In receiving a relevant Petition requiring a Full Debate at Council submitted under the Councils Petition Scheme the following provisions of this section will apply.<sup>27</sup>

9.2 The Petition Organiser will be given 5 minutes to present the petition to Members.

9.3 Members shall have a period of no more than 15 minutes (unless such time is extended by majority vote of the Council) to debate the petition in accordance with the rules of debate. Members will on the completion of the debate determine the outcome of the Petition in accordance with the Petitions Policy.

9.4 <sup>28</sup>

## 9A. PUBLIC QUESTIONS<sup>29</sup>

9A.1 The conduct of public question time will be regulated by the Chairman of Council, having regard to the following guidelines. The Chairman's decision on the relevance of a question and on the method of dealing with any issue in connection with this procedure will be final.

9A.2 All questions:

- Must be clear and concise and be relevant to matters for which the Council has powers or duties.
- Should be limited to obtaining information or pressing for action.
- Should be capable of being adequately answered in three minutes.

9A.3 Questions should not:

- Contain offensive expressions.

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<sup>26</sup> Amendment approved 29 July 2010

<sup>27</sup> Amendment approved 30 April 2020, updated 6 August 2020

<sup>28</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>29</sup> Amendment approved 25 February 2010

- Divulge, or require the answer to divulge, confidential or exempt information.
- Repeat questions previously asked at earlier meetings unless there has been a material change of circumstances

9A.4 Questions may only be asked of the following:

- The Leader of Council.
- A portfolio holder (Cabinet member).
- The Chairman of a Scrutiny Committee.

9A.5 Members of the public wishing to ask a question at the Council meeting should provide the following details to the Council's Member Services team by no later than 12.00 noon, seven working days before the meeting:

- Name and address and contact details of the person asking the question.
- The name of an organisation if the question is being asked on their behalf.
- Details of the question to be asked.
- The name or position of the member of the Council to whom it is to be put.
- Brief information about how the subject of the question relates to the person asking the question (e.g. as a resident of the area, as a recipient of a service, the owner of a property affected by a proposal).

Only one question may be asked by each member of the public or organisation and the question must relate to a single topic.

9A.6 The following process will apply at the meeting<sup>30</sup>:

- The Chairman will invite questions to be asked at the meeting usually in the order in which they are received by Member Services.
- The Chairman of the Council will invite the member of the public to put his/her question from the floor of the Council Chamber using the microphone provided.
- The member of the public will then ask their question. Up to a maximum of three minutes will be allowed in which to ask the question.
- The named member will respond to the question which may take the form of:
  - a direct oral response of up to a maximum of two minutes;

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<sup>30</sup> Amendment approved 30 April 2020, updated 6 August 2020

- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - where the reply cannot conveniently be given orally, a written response circulated later to the questioner and made available to all members of Council and to the public.
- After the response has been given, the questioner has up to a further minute in which to put one supplementary question or seek clarification of the response to the original question. The supplementary question must arise directly out of the original question or the reply and must not introduce new material.
  - The recipient of the original question then has up to a further three minutes in which to reply to the supplementary question.
  - The Chairman of the Council may, in exceptional circumstances, extend the time either for a question or its response. The timing of questions and responses is controlled by Member Services.
  - Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written response.
  - No debate will be allowed on any question or the response.

9A.7 (Deleted).<sup>31</sup>

## 10. MOTIONS ON NOTICE

### 10.1 Notice

Except for motions which can be moved without notice under Rule 11, notice of every motion signed by the member giving the notice must be delivered in writing or by electronic mail to the Chief Executive by not later than 12 Noon<sup>32</sup> at least 5<sup>33</sup> clear working days before the date of the relevant meeting (that is not counting the day of delivery or the day of the meeting). These will be dated, numbered in the order in which they are received and entered into a book which shall be open to public inspection.

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<sup>31</sup> Amendment approved 30 April 2020, deleted 6 August 2020

<sup>32</sup> Amendment approved 3 October 2022

<sup>33</sup> Amendment approved 14 December 2020

## 10.2 **Motions set out in agenda**

The Chief Executive shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the members giving such notice intimated in writing when giving it, that (s)he proposed to move it at some later meeting, or subsequently had withdrawn it in writing.

## 10.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which directly affect the district.<sup>34</sup>

## 10.4 **Failure to Move**

If a motion set out in the summons is not moved either by the member who gave notice thereof or by some other member on his/her behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

## 10.5 **Reference to Cabinet, Committee or Panel**

- (a) Subject to 10.5(c) of these Rules, if the subject matter of any motion of which notice has been duly given is within the terms of reference of the Cabinet, the Overview and Scrutiny Panel, a committee or panel, it shall, upon being moved and seconded, stand referred without discussion to the Cabinet, Overview and Scrutiny Panel, committee or panel as the Council may determine, provided that such Cabinet, Overview and Scrutiny Panel, committee or panel shall report on the matter with recommendations to an ensuing meeting of the Council.
- (b) The member who has moved the motion and the seconder to the motion will be notified by the Chief Executive of the date and time of the meeting to which the motion has been referred and has the right to attend the meeting and speak to the motion.
- (c) The Chairman may, if (s)he considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

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<sup>34</sup> Amendment approved 17 June 2020

## 11. MOTIONS WITHOUT NOTICE

11.1 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;
- (d) to refer something to Cabinet, a committee or panel or to an appropriate body or individual;
- (e) to appoint a committee or panel or member arising from an item on the summons for the meeting;
- (f) to receive, defer or refer back reports or adoption of recommendations of the Cabinet, the Overview and Scrutiny Panel, committees, panels or officers and any subsequent motions and amendments arising from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 19.3 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules;
- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) to invite a member to remain;
- (r) to record a vote in accordance with Rule 15.4 of these Rules;

- (s) in connection with voting on appointments in accordance with Rule 15.7 of these Rules; and
- (t) to extend the time limit for speeches.

## 12. RULES OF DEBATE

### 12.1 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.

### 12.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require the mover to put it in writing and hand it to him/her before it is discussed.

### 12.3 Seconders' Speech

When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

### 12.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order<sup>35</sup>. No speech may exceed 5 minutes in length without the consent of the Chairman.

### 12.5 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;

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<sup>35</sup> Amendment approved 30 April 2020, updated 6 August 2020

- (e) on a point of order<sup>36</sup>; and
- (f) by way of personal explanation<sup>37</sup>;
- (g) to move or speak on a procedural motion set out in paragraph (e), (f) or (g) of Rule 12.10 of these Rules.

## 12.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to a motion and will either be to:-
  - (i) refer a subject of debate to the Cabinet, Overview and Scrutiny Panel, committee or panel for consideration or re-consideration;
  - (ii) leave out words;
  - (iii) leave out words and insert or add others; or
  - (iv) insert or add words

as long as such omission, insertion or addition of words does not have the effect of negating the motion before the Council.

- (b) An amendment may not be discussed until it has been moved and seconded.
- (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) No member may move or second more than one amendment to a motion.
- (e) If an amendment is not carried, other amendments to the original motion may be moved.
- (f) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (g) If an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or speeches or if there are none, put it to the vote. An exception is in the case of such an amendment as is referred to in Rule13.6(a)(i) of these Rules when no further amendment may be moved.

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<sup>36</sup> Amendment approved 30 April 2020, updated 6 August 2020

<sup>37</sup> Amendment approved 30 April 2020, updated 6 August 2020

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### 12.7 **Alteration of Motion**

- (a) A member may alter a motion 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.

### 12.8 **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.

### 12.9 **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 and seconded, 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/ her amendment.

### 12.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except -

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;

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<sup>38</sup> Amendment approved 30 April 2020, deleted 7 May 2021



- (d) that the vote be now taken;
- (e) to adjourn the meeting or debate;
- (f) to exclude the public and press in accordance with the Access to Information Rules;
- (g) to not hear further a member named under Rule 19.3 of these Rules or to exclude them from the meeting under Rule 19.4 of these Rules.
- (h) to suspend one or more of these Procedural Rules; and
- (i) to refer the subject of the debate back to Cabinet, Overview and Scrutiny Panel, committee or panel.

#### **12.11 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 the meeting or debate.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been discussed sufficiently, 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 discussed sufficiently, the Chairman will put the procedural motion to the vote. If it is passed, the Chairman will give the mover of the original motion the 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 discussed sufficiently and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) If a motion to adjourn the meeting is seconded and the Chairman thinks that the remaining business before the meeting cannot be discussed sufficiently on that occasion, he/she shall put the adjournment motion to the vote without giving the mover to any motion under discussion

his/her right of reply. If the motion for the adjournment is carried, the remaining business shall stand adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or otherwise, to the next ordinary meeting of the Council.

#### **12.12 Point of Order**

A member may raise a point of order at any time. The Chairman will hear that member 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.<sup>39</sup>

#### **12.13 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. The ruling of the Chairman on the admissibility of a personal explanation will be final.<sup>40</sup>

### **13. Effect of Interests<sup>41</sup>**

- 13.1 Any Member who has a Disclosable Pecuniary Interest (as defined in Part 2 of the Member Code of Conduct) in a matter under consideration and does not have a Dispensation shall leave the room containing the meeting for the duration of the consideration of the matter.<sup>42</sup>

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### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the previous six months cannot be moved unless a notice of motion is signed by at least 10 members of the Council.

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<sup>39</sup> Amendment approved 30 April 2020, deleted 6 August 2020

<sup>40</sup> Deleted 6 August 2020

<sup>41</sup> Amendment approved 26 July 2012

<sup>42</sup> Amendment approved 26 July 2012

<sup>43</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 14.2 **Motion Similar to One Rejected Previously**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the previous 6 months cannot be moved unless the notice of motion or amendment is signed by at least 10 members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment within a further period of 6 months.

## 15. **VOTING**

### 15.1 **Majority**

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.

### 15.2 **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 the casting vote.

### 15.3 **Show of Hands**

Unless a recorded vote is demanded under Rule 15.4 of these Rules, the Chairman will take the vote by a show of hands, or if there is no dissent by the affirmation of the meeting.

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### 15.4 **Recorded Vote**

If a decision is to be made in relation to budget and/or Council Tax or <sup>45</sup> at least 6 members present request it by rising in their seats and before the Chairman begins to take the vote, the names for and against the motion or amendment or abstaining from voting will be taken down and entered into the minutes.

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### 15.5 **Right to Require Individual Vote to be Recorded**

Where any member requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show

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<sup>44</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>45</sup> Amendment approved 27 February 2014

<sup>46</sup> Amendment approved 30 April 2020, deleted 7 May 2021

whether he/she voted for or against the motion or abstained from voting.<sup>47</sup>

#### **15.6 Right to Require Number Voting to be Recorded**

Where any member requests it, before the vote is taken, the number of councillors voting for and against the motion or amendment and the number abstaining from voting will be taken down in writing and entered into the minutes.<sup>48</sup>

#### **15.7 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, 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. Alternatively, the Chairman may determine that voting on appointments be by means of a ballot.

### **16. MINUTES**

#### **16.1 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 then only by motion duly moved and seconded.

#### **16.2 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 purpose of paragraphs 41(1) and (2) of Schedule 12 relating to the signing of minutes.

#### **16.3 Form of Minutes**

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

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<sup>47</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>48</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## 17. RECORD OF ATTENDANCE

- 17.1 All members present during the whole or part of the meeting must sign their names in the attendance book before the conclusion of every meeting to assist with the record of attendance.<sup>49</sup>

## 18. EXCLUSION OF THE PUBLIC

- 18.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 of these Rules (Disturbance by the Public).

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## 19. MEMBERS' CONDUCT

### 19.1 Standing to Speak

Unless permitted to remain seated by the Chairman, when a member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the other must sit. Other members must remain seated whilst another member is speaking unless they wish to make a point of order or a point of personal explanation.

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### 19.2 Chairman Standing

When the Chairman stands during a debate any members speaking at the time must stop and sit down. The meeting must be silent.

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### 19.3 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 direct that the member be not heard further.<sup>53</sup>

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<sup>49</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>50</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>51</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>52</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>53</sup> Amendment approved 30 April 2020, deleted 7 May 2021

#### 19.4 **Member to leave the meeting**

If the member continues to behave in a disorderly manner after being subject to a direction under 19.3 above, the Chairman may direct that either the member leaves the meeting or that the meeting be adjourned for a specified period.<sup>54</sup>

#### 19.5 **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.

### 20. **DISTURBANCE BY THE PUBLIC**

#### 20.1 **Removal of Member of the Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

#### 20.2 **Clearance of Part of Meeting Room**

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

#### 20.3 <sup>55</sup>

### 21 **PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS**

Any person attending a meeting which is open to the public is to be permitted to report on the meeting<sup>56</sup>

“reporting” means—

(a) filming, photographing or making an audio recording of proceedings at a meeting;

(b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;

or

(c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.”

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<sup>54</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>55</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>56</sup> Amendment approved 18 September 2014

## **22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Rules of Procedure except Rules 15.5 and 16.2 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 or part of the meeting.

### **22.2 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.

## **23. APPOINTMENT OF SUB-COMMITTEES, SUB-GROUPS AND ADVISORY/TASK GROUPS**

23.1 The Council, Cabinet and any committee or panel may appoint such sub-committees or sub-groups as they may consider necessary from time to time and shall specify the purpose, terms of reference and any delegated powers of such sub-committee or sub-group.

23.2 The Council, Cabinet, Cabinet portfolio holder and any committee or panel may appoint such advisory groups as they may consider necessary from time to time and shall specify the purpose, duration and terms of reference of such advisory group, except that such advisory group shall be of a deliberative nature only and shall report back with or without recommendations to the body or person that appointed them.

23.3 The appointment of members to any sub-committee, sub-group or advisory group, shall be in accordance with legislative or regulatory requirements for the representation of political groups and shall have regard in particular to 23.2 above.

## **24. APPLICATION TO COMMITTEES AND PANELS<sup>57</sup>**

24.1 All of the Council Rules of Procedure apply to meetings of full Council<sup>58</sup>

24.2 Meetings of the Cabinet are governed by the Cabinet Procedure Rules (Rule 4) only rules 18, 20, 21, 22, 23, 25, 26 and 27 of this

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<sup>57</sup> Amendment approved 29 July 2010

<sup>58</sup> Amendment approved 30 April 2020, deleted 7 May 2021

Rule 1 apply and shall be read in such a way as to apply to Cabinet where relevant<sup>59</sup>

24.3 Paragraphs 18, 20, 21, 22 and 23 of this Rule 1 apply and shall be read in such a way as to apply to the Investment Board where relevant.<sup>60</sup>

24.4 Paragraphs 4, 5, 6, 7, 14, 15, 16, 17, 18, 19, (but not rule 19.1), 20, 21, 22, 25, 26 and 28 shall apply and be read in such a way as to apply to the Executive Advisory Committees where relevant.<sup>61</sup>

24.5<sup>62</sup> Rules 3, 4, 5, 6, 7, 11, 12, 14, 15, 16, 17, 18, 19 (but not rule 19.1), 20, 21, 22, 23, 25, 26 and 27 apply to the proceedings of the Overview and Scrutiny Panels, committees, panels, sub-committees and sub-groups and shall be read in such a way as to apply to those meetings where relevant<sup>63</sup>

## **25. ITEMS ON COMMITTEE AGENDA**

25.1 Any member wishing to have an item placed on an agenda for a meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel (other than by way of a notice of motion in accordance with Rule 11) shall contact the Chief Executive, or in his absence a member of Senior Management Team, requesting that an item be placed on the next available agenda for that body and the decision of the Chief Executive, or in his absence, a member of Senior Management Team, shall be final as to whether that item falls within the terms of reference of the Cabinet, Overview and Scrutiny Panel, a committee or panel.

## **26. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF WHICH THEY ARE NOT MEMBERS**

26.1 A member of the Council may address a meeting of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group of which he/she is not a member on a specified item or terms of business where notice has been given to and prior permission obtained from the Chairman of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group. In cases where the Chairman does not give such permission under this Procedure Rule, the member so refused may seek the approval of the Cabinet, Overview and Scrutiny Panel, committee, panel, sub-committee or sub-group and may attend for the purpose of stating his/her case. For the avoidance

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<sup>59</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>60</sup> Amendment approved 9 January 2020

<sup>61</sup> Amendment approved 17 July 2023

<sup>62</sup> Amendment approved 17 July 2023

<sup>63</sup> Amendment approved 30 April 2020, deleted 7 May 2021



of doubt the right to address the meeting does not confer a right to take part in the debate or vote.<sup>64</sup>

## **27. MOVER OF MOTION MAY ATTEND MEETING**

27.1 A member of the Council who has moved a motion which has been referred by the Council to the Cabinet, Overview and Scrutiny Panel, committee or panel shall receive notice of the meeting of the Cabinet, Overview and Scrutiny Panel, committee or panel at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he/she attends shall have an opportunity of speaking to the motion and exercising the right of reply under Rule 12.9. These provisions are subject always to Rule 13.<sup>65</sup>

## **28 SUBSTITUTIONS<sup>66</sup>**

28.1 Substitute Members will have all the powers and duties of any ordinary Members of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

28.2 Substitute Members may attend meetings in that capacity only:

28.2.1 to take the place of an absent ordinary Member for whom they are the designated substitute; and

28.2.2 where the ordinary Member will be absent for the whole of the meeting; and

28.2.3 where notification has been given to the Members Services Team not less than one hour before the meeting

28.3 Provided the above conditions have been satisfied, the substitute Member shall retain the right to vote for the duration of the meeting and may not be replaced by the Member for whom he or she is substituting.

28.4 However, if the Member who is to be replaced ("the original Member") is present at the start of the meeting then the substitution shall not have effect for that meeting - so that the substitute may not speak and/or vote in that capacity at that meeting and may only otherwise speak with the prior consent of the Chairman or in accordance with a public speaking right.

28.5 Where the original Member is not present at the start of the meeting at which the substitute is present, but arrives later, the original Member may not speak and/or vote at that meeting as a member of that Member Body and may only otherwise speak

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<sup>64</sup> Amendment approved 29 July 2010

<sup>65</sup> Amendment approved 26 July 2012

<sup>66</sup> Amendment approved 19 May 2011

with the prior consent of the Chairman or in accordance with a public speaking right.

- 28.6 Such Rights shall not entitle any member to be present in the room when they would otherwise be excluded under Rule 13.<sup>67</sup>
- 28.7 Where Outside Bodies are concerned, the Leader of the relevant political group may nominate an alternative attendee where exceptionally, neither the approved substantive or substitute members are able to attend a meeting of the relevant Body and provided that the Body's Constitution/Terms of Reference permit that attendance.<sup>68</sup>

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<sup>67</sup> Amendment approved 26 July 2012

<sup>68</sup> Insertion approved 26 February 2024

## **RULE 2 ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

1.1 These Rules apply to all meetings of the Council, the Overview and Scrutiny Panel, committees, sub-committees, panels and sub-groups and public meetings of the Cabinet and Investment Board (together called meetings).<sup>69 70</sup>

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

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

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

3.1 Members of the public may attend all meetings <sup>71</sup> subject only to the exceptions in these Rules.

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

4.1 The Council will give at least five working clear days notice of any meeting by posting details of the meeting at the Council's offices at Fenland Hall, March<sup>72</sup>

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

5.1 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 days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the agenda has been sent out, the Monitoring Officer<sup>73</sup> shall make each such report available to the public as soon as the report is completed and sent to Councillors. The Council will make available a reasonable number of copies of the agenda for members of the public present at a meeting.<sup>74</sup>

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

6.1 The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;

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<sup>69</sup> Amendment approved 9 January 2020

<sup>70</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>71</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>72</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>73</sup> Amended 25 September 2009

<sup>74</sup> Amendment approved 30 April 2020, deleted 7 May 2021

- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive or the Monitoring Officer<sup>75</sup> thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person<sup>76</sup> on payment of a reasonable charge for postage and any other costs (no fee will be charged for inspection of any documents mentioned in this rule).

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

7.1 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, 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**

Every report shall list those documents (background papers) relating to the subject matter of the report, except exempt or confidential information (as defined in Rule 10), which:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

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<sup>75</sup> Amended 25 September 2009

<sup>76</sup> Amendment approved 30 April 2020, deleted 7 May 2021

## **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.<sup>77</sup>

## **9. SUMMARY OF PUBLIC'S RIGHTS**

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the Council's offices at Fenland Hall, March.<sup>78</sup>

## **10. EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **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**

(a) 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.

(b) 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.

### **10.4 Meaning of exempt information<sup>79</sup>**

Exempt information means information falling within the following 7 categories, subject to the relevant condition(s):-

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<sup>77</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>78</sup> Amendment approved 30 April 2020, deleted 7 May 2021

<sup>79</sup> Amended 21 December 2006

<b>Category</b>	<b>Condition</b>	<b>Public Interest</b>
1. Information relating to any individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information within paragraph 3 is not exempt if it must be registered under the Companies Act 1985, the or Charities Act 1993, the Friendly Societies Acts of 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978 and the Building Societies Act 1986.	Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or	Exempt information if and so long as in the circumstances of the case the public interest in

Category	Condition	Public Interest
<p>connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.</p>	<p>any other consultations or negotiations in connection with a Labour relations matter.</p> <p>“Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.</p>	<p>maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained</p>		<p>Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>(A) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(B) to make an order or direction under any enactment</p>	<p>Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.</p>	<p>Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

Category	Condition	Public Interest
7. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		Exempt information if and so long as in the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS<sup>81</sup>

11.1 If the Chief Executive or his/her nominee thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10 of these Rules, the meeting is likely not to be open to the public. Such reports will be endorsed “Not for publication” together with the category of information likely to be disclosed.

11.2 There should be a paragraph in the body of such a report setting out an explanation of why the category of exempt information is applicable and whether on balance the public interest should override the application of the exemption.

11.3 Where practicable any exempt information required to enable a proper decision to be taken on the matter being reported to a meeting as specified in 1.1 above, should be separate from the body of the report in an appendix.

## 12. APPLICATION OF RULES TO THE CABINET

12.1 Rules 13 – 24 of these Rules apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule

<sup>80</sup> Amendment approved 26 July 2012

<sup>81</sup> Amended 21 December 2006



15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in paragraph 3.2 of Article 13 of this Constitution.

12.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer 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 of these Rules unless Rule 15 of these Rules (general exception) or Rule 16 of these Rules (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

### 13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

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

- (a) a notice (in the form of a “forward plan”) has been published in connection with the matter in question;
- (b) at least three 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, notice of the meeting has been given in accordance with Rule 4 of these Rules (notice of meetings).

### 14. **THE FORWARD PLAN**

#### 14.1 **Period of Forward Plan**

Forward plans will be prepared by Cabinet to cover a period of four months, beginning with the first day of any month. They will be revised 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**

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

14.2.2 The forward plan must be published at least 14 days before the start of the period covered. The Monitoring Officer<sup>82</sup> shall 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 months period following its publication;
- (d) that each will be available for inspection at reasonable hours free of charge at the Council's main office;
- (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;

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<sup>82</sup> Amended 25 September 2009

- (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 main office.

14.2.3 Exempt information need not be included in a forward plan and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

15.1 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 of these Rules (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 Chief Executive has given notice in writing to the Chairman of the Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (b) and (c).

15.2 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 of these Rules (general exception) cannot be followed, then

the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred.

- 16.2 If the Chairman of the Overview and Scrutiny Panel is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the consent of the Chief Executive or his/her nominee will suffice.
- 16.3 Decisions taken as a matter of urgency must be reported to the next available meeting of the Overview and Scrutiny Panel, together with the reasons for urgency.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Panel can require a report**

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

- (a) included in the forward plan;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Panel Chairman or the Chairman of the Council or the Chief Executive or his/her nominee under Rule 16 of these Rules;

the Panel may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Panel, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Panel when so requested by the Chairman or any three members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny panel.

### **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 seven working days of receipt of the written notice, or the resolution of the Panel, then the report may be submitted to the meeting after that. The report to the Council will set out particulars of the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was 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 executive decisions taken in the circumstances set out in Rule 16 of these Rules (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**

18.1 After any meeting of the Cabinet or its committees, the Chief Executive will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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

19.1 The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private but the presumption will be that they will be in public.

**20. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

20.1 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 three clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Panel

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 Chairman of the Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

20.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 of these Rules (inspection of documents after meetings) will also apply to the making of decision by individual members of the

Cabinet. This does not require the disclosure of exempt or confidential information.

## **21. OVERVIEW AND SCRUTINY PANEL'S ACCESS TO DOCUMENTS**

### **21.1 Rights to Copies**

Subject to Rule 21.2 of these Rules, the Overview and Scrutiny Panel (including its sub-panels) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:-

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

### **21.2 Limit on Rights**

The Overview and Scrutiny panel will not be entitled to:-

- (a) any document that is in draft form; or
- (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.

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

### **22.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted or relates to any key decision unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information set out in Rule 10.4 of these Rules.

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Rule 22.1 of these Rules applies.

### **22.3 Nature of rights**

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

## **RULE 3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

### **2. PROCESS FOR DEVELOPING FRAMEWORK**

- 2.1 The process by which the budget and policy framework shall be developed is:-
- (a) The Cabinet will publicise by including in the forward plan and/or publication at the Council's offices or by other means e.g. on its website or in the local press, 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. The Chairman of the Overview and Scrutiny Panel also will be notified. In the absence of the Chairman, the Vice-Chairman of the Panel will be notified. The consultation period shall in each instance be relevant to the proposals to be considered and sufficient for meaningful consultation.
  - (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. As the Panel has responsibility for fixing its own work programme, it is open to the Panel to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Panel into account in drawing up firm proposals for the submission to the Council and its report to Council will reflect the comments made by consultees and the Cabinet's response.
  - (c) Once the Cabinet has approved firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
  - (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.

- (e) If it accepts the recommendation of the Cabinet 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 within three working days of the meeting in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective within five working days from the publication of the Council's decision, unless the Leader informs the Chief Executive in writing within that period of five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Chief Executive will call a Council meeting within a further 15 working days unless the Leader considers that the matter can reasonably be referred to the next ordinary meeting of the Council. The Council will be required to reconsider its decision and the Leader's written submission. The Council may:-
  - (i) approve the Cabinet'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 Cabinet, in accordance with Rules 5 and 6 of these Rules (virement and in-year adjustment). Any other changes to the policy and budgetary framework are reserved to the Council.

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

- 3.1 Subject to the provisions of Rule 5 of these Rules (virement), the Cabinet committee of the Cabinet, individual members of the Cabinet and any officers 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 wishes 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 Rule 4 of these Rules.

- 3.2 If the Cabinet, a committee of the Cabinet, individual members of the Cabinet and any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance 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 Rule 4 of these Rules (urgent decisions outside the budget and policy framework) shall apply.

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

- 4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers 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; and
  - (ii) If the Leader and the Chairman of the Overview and Scrutiny Panel agrees that the decision is a matter of urgency.
- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Leader and Chairman of the Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Panel and/or the Leader, the consent of the Chairman of the Council, and in the absence of both, the Chief Executive or his/her nominee's consent will be sufficient.

4.3 Following the decision, the decision taker will provide a full report to the next ordinary Council meeting explaining the decision, the reasons for it and why the decision was taken as a matter of urgency.

## 5. **VIREMENT**

5.1 The Code of Financial Management in Part 4 of this Constitution includes provisions which set out the rules for moving monies between budgetary allocations including contingencies (virement).

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

6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers 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 and individuals except those changes:-

- (a) which will result in the closure and 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; or
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

6.2 In each case a report on the action taken will be reported by the Cabinet to the next ordinary meeting of the Council.

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

7.1 Where the Overview and Scrutiny Panel 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 Finance Officer.

- 7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance 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 to prepare a report to Council in event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Panel if the Monitoring Officer or Chief Finance Officer conclude that the decision was not a departure.
- 7.3 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 the Chief Finance 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 Overview and Scrutiny Panel 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 10 working days of the request by the Overview and Scrutiny Panel. At the meeting it will receive a report on the decision or proposals and the advice of the Monitoring Officer and/or the Finance Officer. The Council may either:-
- (a) endorse a decision or proposal of the Cabinet 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
  - (b) amend the Council's Code of Financial Management or policy concerned to encompass a 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
  - (c) 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 Council's 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 and/or Chief Finance Officer.