

**Committee:** Standards Committee  
**Date:** Wednesday 8 April 2009  
**Time:** 6.30 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### Membership

Councillor Fred Blackwell  
Councillor Mrs Catherine  
Fulljames  
Councillor Eric Heath  
Councillor Russell Hurle

Councillor James  
Macnamara  
Councillor George Parish  
Councillor Devena Rae  
Councillor Rose  
Stratford

Councillor Bernard  
Lane  
Jim McBeth  
Kenneth Hawtin  
Councillor Alan  
Greenslade-Hibbert

## AGENDA

**1. Apologies for Absence and Notification of Substitute Members**

**2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

**3. Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

**4. Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

**5. Minutes** (Pages 1 - 3)

To confirm as a correct record the Minutes of the meeting of the Committee held on 22 January 2009.

**6. Review and update of the Constitution** (Pages 4 - 137)

Report of Head of Legal and Democratic Services

## **Summary**

To seek consideration from the Standards Committee of the proposed changes to the constitution.

## **Recommendations**

Standards Committee is recommended:

- (1) To consider and comment on the proposed changes to the constitution
- (2) To approve, subject to any amendments the Standards Committee may wish to make, and subject to any comments or amendments from the Executive on 6 April, the attached Introduction, Terms of Reference and Scheme of Delegation, Rules of Procedure and Planning Guidance and to recommend to Council that these documents be approved.
- (3) To recommend to Council that delegated powers be given to the Head of Legal and Democratic Services, to make any minor or consequential amendments that may be needed, in particular with inconsistencies or duplications that may exist within the part of the constitution not yet reviewed.
- (4) To recommend to Council that the financial limit for key decisions for 2009/2010 be £50,000

## **Information about this Agenda**

The agenda, reports and associated documents for the above hearing together with the Licensing Hearing Procedure are available at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or on the Council's web site [www.cherwell-dc.gov.uk](http://www.cherwell-dc.gov.uk);

Members are asked to sign the Attendance Register

The Council and its Committees and Sub-Committees are required to consider the implications of the Crime and Disorder Act 1998 and the Human Rights Act 1998 when exercising their functions.)

## **Queries Regarding this Agenda**

Please contact Alexa Coates, Legal and Democratic Services [alexa.coates@cherwell-dc.gov.uk](mailto:alexa.coates@cherwell-dc.gov.uk) (01295) 221591

**Mary Harpley**  
**Chief Executive**

Published on Monday 30 March 2009

# Agenda Item 5

## Cherwell District Council

### Standards Committee

Minutes of a meeting of the Standards Committee held in at Bodicote House, Bodicote, Banbury, OX15 4AA, on 22 January 2009 at 6.30 pm

Present: Douglas Frewer (Chairman)

Sadie Reynolds  
Councillor Mrs Catherine Fulljames  
Councillor Eric Heath  
Councillor Russell Hurle  
Councillor Devena Rae  
Councillor Bernard Lane  
Jim McBeth  
Councillor Alan Greenslade-Hibbert

Substitute  
Members: Councillor David Carr

Apologies for  
absence: Councillor Fred Blackwell  
Councillor James Macnamara  
Councillor George Parish  
Councillor Rose Stratford

Officers: Alexa Coates, Senior Democratic and Scrutiny Officer  
Liz Howlett, Head of Legal & Democratic Services and Monitoring Officer  
Natasha Clark, Trainee Democratic and Scrutiny Officer

#### 29 **Declarations of Interest**

There were none.

#### 30 **Petitions and Requests to Address the Meeting**

There were none.

#### 31 **Urgent Business**

There was no urgent business.

#### 32 **Minutes**

The minutes of the meeting held on 6 November 2008 were approved as a correct record and signed by the Chairman subject to the following changes to Minute Number 6: that Mr Greenslade Hibbert had attended the first day of the seventh annual assembly of Standards Committees and Mr McBeth the second day.

33 **Press Protocol for Standards Committee**

The Committee considered a report of the Head of Legal and Democratic Services/Monitoring Officer proposing a press protocol for Standards Committee.

The Committee considered the draft protocol and when to inform the press of a complaint. In addition the Committee considered when it would be appropriate to inform individual Councillors that a complaint had been made about them. The Committee supported the current approach of notifying a member when a complaint had been received about them and felt that only in exceptional circumstances should the Monitoring Officer not notify the member.

The Committee considered the wording of the draft protocol and suggested the following amendments

**Resolved**

That the draft press protocol be submitted for consultation to local media organisations subject to the following changes:

- (1) As a matter of course, notice that any press inquiry has been made should be given to the Chairman of the Standards Committee and the monitoring officer.
- (2) The Decision Notice should be available for public inspection within seven working days after the Assessment Sub-Committee has reached its decision. There is no requirement for the decision to be published on the internet. Where the decision is to take no action and a review is requested of this decision we will not publish until the review is completed.
- (3) There is no intention to automatically notify the press. Information may be given on an 'if asked' basis.

34 **Standards Board Quarterly Statistics**

The Committee considered a report of the Head of Legal and Democratic Services/Monitoring Officer informing members of the Standards Board Quarterly Statistics. The Committee noted that of 127 complaints referred to the Standards Board in the last quarter in only 2 cases were the decisions of the local assessment panel overturned.

The Committee also commented on the level of complaints received from members of the public, which was 55%, noting that a high number of complaints came from other sources such as other Councillors.

**Resolved**

That the contents of the report be noted.

(Councillor Rae left the meeting at the conclusion of this item.)

35 **Call-In Review**

The Committee considered a report of the Chief Executive which sought the Committee's comments on proposed changes to the Call-in model and the subsequent proposed changes to the Council's Constitution.

Members noted the difficulties in obtaining six signatories required to call-in a decision and supported the new arrangements which allowed notification by email and text.

**Resolved**

- (1) That the results of the consultation on the review of Call-in and the proposals from the Overview and Scrutiny Committee and Executive be noted.
- (2) That the revised Call-in model be approved subject to the following amendment to 17.Call-in Protocol at Overview and Scrutiny, The meeting Paragraph 9: The Overview and Scrutiny Committee will debate the issue, only members of the Committee and the officer appointed by the Chief Executive to advise the Overview and Scrutiny Committee on the Call-in may speak.

36

**Standards Board Training**

Members who attended the Standards Board Training in Oxford on 8 January 2009 reported to the Committee. Members found the training useful particularly the scenarios used and the interaction with committee members and monitoring officers from other authorities. Members commented that the organisation and seating arrangements had not been as good as at other Standards Board Training sessions.

As part of a wider training programme the independent members and parish representatives were invited to attend a Council planning meeting on 29 January 2009.

The meeting ended at 7.11 pm

Chairman:

Date:

# Agenda Item 6

## Standards

### Review and update of the Constitution

6 April 2009

### Report of Head of Legal and Democratic Services

#### PURPOSE OF REPORT

To seek approval from the Standards Committee to recommend to Council the changes to the constitution proposed

This report is public
-----------------------

#### Recommendations

---

Standards Committee is recommended:

- (1) To consider and comment on the proposed changes to the constitution
- (2) To approve, subject to any amendments the Standards Committee may wish to make, and subject to any comments or amendments from the Executive on 6 April, the attached Introduction, Terms of Reference and Scheme of Delegation, Rules of Procedure and Planning Guidance and to recommend to Council that these documents be approved.
- (3) To recommend to Council that delegated powers be given to the Head of Legal and Democratic Services, to make any minor or consequential amendments that may be needed, in particular with inconsistencies or duplications that may exist within the part of the constitution not yet reviewed.
- (4) To recommend to Council that the financial limit for key decisions for 2009/2010 be £50,000

#### Executive Summary

---

##### Introduction

- 1.1 The objectives of this review of the constitution are to update the constitution, make it easier to use, remove inconsistencies and duplication and make the decision making process better value for money.
- 1.2 This review has not covered the codes and protocols section other than to revise the planning guidance in the light of the adoption of public speaking at planning committees and to tie in with the new planning procedure rules. The

codes and protocols section will be reviewed when the new code of conduct is issued later in the year.

### **Proposals**

- 1.3 The Introduction is intended to explain to the public, and new councillors and staff, how the Council works. It replaces the existing Articles, Summary and the Access to Information Procedure rules.
- 1.4 The Terms of Reference and the Scheme of Delegation will now be Part One of the constitution. This sets out from the Council downwards what each committee does and then sets out both general and specific delegations to staff. All the delegations are now in one place and specific powers are listed under the specific Head of Service. All acronyms are removed.
- 1.5 The Rules of Procedure will now be Part Two of the constitution. This sets out, again starting with full Council, the procedure rules to be followed. The rules are in one place and have been written to be as clear and easy to follow as possible.
- 1.6 Annually updated information will not be in the constitution. This has consisted of a list of councillors and wards, the schedule of meetings and structures within the organisation. This information is very useful but changes too quickly for it to be held in the constitution. This information will be available through the committee management system and in hard copy through the Yearbook for those who prefer it.

### **Conclusion**

- 1.7 This has been a major piece of work. The Codes and Protocols section remains to be reviewed and rewritten in full and that will be the next stage of the project later in the year. Where there are inconsistencies with what is adopted here and what has not yet been reviewed I am seeking delegated powers to amend to make it consistent.
- 1.8 The constitution is the governance infrastructure of the authority. It is largely invisible but impacts every day in how we work, deal with the public, enforce legislation and take decisions. These changes are intended to increase transparency, improve efficiency and value for money and provide a clear guide for all on how we work. This should help the authority to comply with the duty to promote democracy contained in the Local Democracy, Economic Development and Construction Bill.

## Background Information

---

- 2.1 The Council's constitution has not been reviewed for many years. It has been added to as required but consequential inconsistencies and duplications have not been dealt with. It has simply increased in size and complexity. This is unhelpful for everyone and leaves the Council open to potential challenge if people are not sure about their authority to take action.
- 2.2 The Terms of Reference and Scheme of Delegation starts with full Council. Full Council can take any action which the authority is legally able to take. Full Council must explicitly delegate power to enable any other body or person to act on behalf of the Council. The Council delegates to the Executive all the powers and functions which it is able to under relevant legislation. The Executive ensures the authority takes decision within the budget and policy framework adopted by the Council. It monitors the budget and performance of the authority and takes all key decisions unless it explicitly delegates these. Key decisions are those affecting more than one ward or involving a "significant" sum. What is significant is for the authority to decide in the context of its own budget and the economic climate.
- 2.3 Individual portfolio holders manage their areas of responsibility by taking the non key decisions in their area. Their role is crucial. The audit trail for individual decisions is as important as for decisions of the Executive.
- 2.4 All Terms of Reference have been updated and reviewed (for example removing reference to PRP).
- 2.5 Below this sits the officer scheme of delegation. This is critical for the day to day management and running of the organisation. The existing powers have all been pulled into one place to make them easier to find. The powers have then been reviewed to make sure they fit with responsibilities following the restructure and are up to date and relevant. Values have been increased where necessary to reflect the reality of today's costs. Changes flowing from the Improvement Plan for Planning have been included, as well as changes flowing from the new Contract Rules of Procedure adopted in January 2008. Personnel Committee no longer approves all posts provided the proposed posts are within budget so not increasing the establishment, but it retains responsibility for approving restructures of 5 posts or more and other strategic functions. The 'general' part of Personnel and General is moved to Council. Powers have deliberately been made more general to avoid problems with defence lawyers challenging our prosecutions on the issue of authority to take action.
- 2.6 The Rules of Procedure have been reviewed (or written where they did not exist). In particular focusing on those committees where the public are directly involved or affected, that is planning, licensing, standards and scrutiny.
- 2.7 Although the Codes and Protocols are not being reviewed the planning guidance needed updating in the light of the decision to allow public speaking at planning committee (and the detailed procedure rules for this are set out in the Rules of Procedure section) and to remove duplications that now exist because some parts of the planning guidance sits better in the revised



planning procedure rules. The procedure rules for public speaking were approved by the planning committee on the 12 March

- 2.8 The Overview and Scrutiny section has been revised to include a list of excluded matters. This is as a result of legislation which comes into force on 1 April 2009. Basically the legislation excludes matters relating to planning and licensing applications and individuals from being the subject of a member reference to a scrutiny committee. Most local authorities, including Cherwell, have been operating these exclusions on an informal basis for several years. The legislation formalises this position to make sure that there is a clear understanding of what matters are appropriate for scrutiny and why.

### **Key Issues for Consideration/Reasons for Decision and Options**

---

- 3.1 Councillors, staff and the public will benefit from a clearer guide as to how we work. It will also help the Council defend any challenges when authority is exercised, whether by committees, individual portfolio holders or individual members of staff.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

<b>Option One</b>	Leave the constitution as it is. This is not recommended as it is out of date. It is also very difficult to find what you need and therefore leaves the Council open to challenge because it is not used properly.
<b>Option Two</b>	Update the layout, formatting and presentation only and ensure references to legislation are correct. This would be a huge improvement in itself and could be adopted
<b>Option Three</b>	Approve the draft appendices attached which both update and improve presentation and streamline decision making to ensure democratic accountability and efficient decision making

### **Consultations**

---

<b>Corporate Management Team</b>	All feedback has been incorporated into the final draft
<b>Extended Management Team</b>	Individual Heads of Service have given detailed feedback on their specific powers
<b>Executive and Personnel and General Committee</b>	Executive members and members of the Personnel and General Committee have been informally consulted before the draft documents were finalised and their comments and suggestions are included

### **Implications**

---

<b>Financial:</b>	There should be efficiency savings from greater clarity about what does, and does not, need to go through the
-------------------	---

Executive and greater clarity on who can decide what.

Comments checked by Eric Meadows, Service Accountant, PH&E, 01295 221552

**Legal:**

It is important for the Council to have a robust constitution supporting effective decision making. It is also important to be able to defend challenges in the courts to authority to act.

Comments checked by Liz Howlett, Head of Legal and Democratic Services 01295 221686

**Risk Management:**

Risk of challenge will be mitigated by a robust constitution

Comments checked by Rosemary Watts, Risk Management and Insurance Officer. 01295 221566

**Wards Affected**

---

All

**Corporate Plan Themes**

---

Accessible Value for Money Council

**Executive Portfolio**

---

**Councillor Barry Wood**  
Portfolio Holder for Policy and Community Planning

**Document Information**

---

<b>Appendix No</b>	<b>Title</b>
Appendix One	Introduction
Appendix Two	Terms of Reference and Scheme of Delegation
Appendix Three	Rules of Procedure
Appendix Four	Planning Guidance
<b>Background Papers</b>	
The existing Cherwell District Council constitution	
<b>Report Author</b>	Liz Howlett, Head of Legal and Democratic Services
<b>Contact Information</b>	01295 221686 liz.howlett@Cherwell-dc.gov.uk

# INTRODUCTION

## **The council's constitution**

Cherwell District Council has agreed this constitution which sets out how the council operates, how decisions are made and the procedures which are followed. The processes are intended to make the council transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose. In the case of any conflict between this constitution and legislation, the legislation will prevail.

### **What is in the constitution?**

The constitution sets out who has the power to take what decisions, how those decisions are taken and the codes and protocols which are followed when we make decisions .

There are three parts:

1. The scheme of delegation (who does what)
2. The rules of procedure (how they do it)
3. Codes and protocols (the expected standards of behaviour)

In addition there is annually updated information (such as a list of current councillors and scheduled meetings for the year) which are not part of the constitution but are available from our website or in hard copy.

The following is a list of annually updated information which can always be found on our website ([www.cherwell.gov.uk](http://www.cherwell.gov.uk)) or obtained in hard copy by contacting Legal and Democratic Services,

- Calendar of meetings (these are agreed for a whole municipal year ahead, that is from May to the following April). Exceptional or special meetings may be added to this. Meetings may be cancelled if there is no business or may be moved if there are deadlines to be met, for example, to ensure a response to government consultation is sent in time.
- Agenda for all meetings
- Minutes of all meetings
- A list of wards in the district
- A list of district councillors and contact details
- Details of who on the executive is responsible for what (called "portfolio holders").
- Details of who is on which committee, joint committee and who represents the council on which outside body.

## **How the council operates**

The council is composed of 50 councillors with one-third elected three years in four. Councillors serve a four year term. A councillor elected at a by-election will serve the remainder of the four year term for the particular seat in question. Councillors are democratically accountable to residents of their Ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors represent their communities and act as advocates for individual constituents. They have to balance different interests and govern for the good of the area as a whole.

Councillors must be registered voters of the Cherwell district, or must own or lease land in the district for at least the last 12 months preceding their consent to be nominated, and must not otherwise be disqualified.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The code of conduct is set out in this constitution. The council's standards committee trains and advises them on the code of conduct, investigates and considers whether to take action on any alleged breaches.

All councillors meet together as "The Council". Meetings of the council are open to the public and press, unless the council has passed a resolution that they be excluded on the grounds that information deemed to be "exempt" i.e. personal or confidential, as defined by statute, is likely to be revealed. At council meetings, councillors decide the council's overall policies and set the budget each year. The council is responsible for appointing the Leader and various committees, and for holding the executive and the committees to account for the decisions they take.

## **Principles of decision making**

Any decision made by the council will be made in accordance with the following principles and in accordance with the procedure rules set out in part two of this constitution,

- Proportionality, that is, the action taken will be proportionate to the desired outcome
- Decisions will be taken following due consultation and taking into consideration professional advice from officers
- Due regard will be shown for human rights and all decisions will be based on balancing the rights of the individual against the public good
- Open transparent decision making
- Clarity in the aim and desired outcome of decisions
- Decisions will be taken that comply with the law and this constitution

When acting in a quasi judicial role the council will follow a proper procedure which complies with the rules of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Access to information by councillors**

All councillors are entitled to inspect any document (except those only available in draft) in the possession or under the control of the Council unless it contains exempt or confidential information (as defined and set out in this Introduction) in which case Councillors will be required to demonstrate a need to know. This does not preclude the Council from deciding to provide members with information over and above this entitlement.

## **The Executive**

Under the Local Government Act 2000, Cherwell District Council chose to have an executive with a Leader.

The executive takes strategic key decisions. Individual executive members are responsible for many day to day decisions. The executive is made up of a Leader and other councillors. The Leader is appointed to the executive by The Council. The Leader then appoints individual councillors to the other positions in the executive. When major (or “key”) decisions are to be discussed or made, these are published in the Leader’s Forward Plan in so far as they can be anticipated. All meetings of the executive are open to the public and press except where “exempt” i.e. personal or confidential matters are being discussed. The executive has to make decisions which are in line with the council’s overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to The Council to decide.

Certain decisions, in particular non-key decisions, may be taken by individual members of the executive (called portfolio holders).

The Council has discretionary powers to set up area committees or forums but has decided not to do so at this time.

The Council may establish joint arrangements or joint committees in accordance with current legislation.

## **Overview and Scrutiny**

The Overview and Scrutiny Committee and the Resources and Performance Scrutiny Board carry out the overview and scrutiny functions and support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters and may hold public inquiries into matters of local concern. This may include reviewing the work of the Council’s partners and other public sector organisations. Overview and scrutiny meetings are open to the public. The committees publish reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Executive as published in the Forward Plan (as set out in the Executive Procedure Rules). The Overview and Scrutiny Committee can

“call-in” or challenge a decision which has been made but which has not yet been implemented.

The Council also appoints members to any countywide joint overview and scrutiny committee(s).

### **Non-Executive Decisions**

Decisions on some matters (for example planning applications and licensing) cannot be taken by the Executive by law, and are either taken by full Council or delegated instead to "regulatory committees" or to staff. Terms of reference for committees and delegations to staff are set out in part one of this constitution.

### **The Council's Staff**

The Council employs staff to give advice, implement decisions and manage the day-to-day delivery of its services. The authority to employ staff below Chief Officer level rests with the Head of the relevant Service. Strategic Directors and Heads of Service are appointed by the Personnel Committee. The Head of Paid Service is appointed by full Council.

The Council has three statutory posts:

The **Head of Paid Service** (as required by section 4 of the Local Government and Housing Act 1989)

The **Chief Finance Officer** (as required by section 151 of the Local Government Act 1972 and frequently referred to as the “section 151 officer”)

### **The Monitoring Officer**

The statutory posts of Chief Finance Officer and Monitoring Officer have the right by law to require adequate resources to be made available to them to carry out their role. The specific responsibilities of these statutory posts are,

**Head of Paid Service** – responsible for overall management and operation of the council which includes management of the staff who work for the council. Must report to council, executive and all other committees when required to do so. Responsible for ensuring the proper use of evaluation systems for determining what staff are paid and reporting as and when required on the number and grade of staff required.

**Chief Finance Officer** – responsible for the administration of the council's finances. Has a specific duty to make a public report in specified cases of actual or anticipated financial misconduct (section 114 of the Local Government Finance Act 1988).

Must nominate an appropriately qualified member of staff to deputise in their absence.

**Monitoring Officer** – responsible for ensuring that the council acts within the law. Has a specific duty to make a public report if at any time they think that any proposal, decision or failure to act by the council may break the law or give rise to a finding of maladministration (section 5 of the Local Government and Housing Act 1989).

Must nominate an appropriately qualified member of staff to deputise in their absence.

There is a code of practice which governs the relationship between staff and councillors. There is also a code of conduct for staff. Both these codes are in part three of the constitution.

Certain decisions are delegated to staff as set out in the council's scheme of delegation in part one of this constitution.

### **Legal and financial procedures**

The council shall have legal and financial procedure rules as set out in this constitution.

Financial Regulations will be reviewed regularly by the Chief Finance Officer to ensure they are fit for purpose. Council will approve all changes other than those required by the fact of a change in law which the Chief Finance Officer has delegated authority to make.

The Contract Rules of Procedure will be reviewed regularly by the Chief Finance Officer and the monitoring officer to ensure they are fit for purpose. Council will approve all changes other than those required by the fact of a change in the law which the monitoring officer has delegated authority to make.

The scheme of delegation sets out the authority to sign documents.

The Head of Legal and Democratic Services will keep the council's seal. All documents that should be sealed will be sealed in accordance with the scheme of delegation as set out in this constitution. The Head of Legal and Democratic Services, or nominated deputies within Legal Services, will seal all council documents unless there are exceptional circumstances when a Strategic Director or the Chief Executive has specific authority to do so.

### **Summary of the rights of the public**

This summary of rights explains how members of the public can participate in the democratic decision making processes of the council and how they can access information relating to council and committee meetings.



## **Voting and petitions**

If you are registered to vote in the district you have a right to vote and sign a petition to request a referendum for an elected mayor.

You may also present petitions to council and committee meetings, providing that it meets the requirements set out in the meeting procedure rules and the procedure rules for that particular committee as set in the constitution.

## **Information**

You have the right to inspect the council's accounts and make their views known to the external auditor. The external auditor will visit the council on a specified day so the public can make their views known. Fourteen days notice of the visit will be given in at least one local newspaper. The accounts will be available for public inspection twenty working days before the auditor's visit.

## **Complaints**

You have the right to complain about the actions of the council, the staff or councillors to:

- the council under its complaint scheme
- the ombudsman after exhausting the council complaint scheme
- the monitoring officer about a breach of the councillor code of conduct.

## **Responsibilities of the public**

The council expects the public to behave responsibly in exercising these rights. The council will not tolerate violent, abusive or threatening behaviour to councillors or staff working for, or on behalf of, the council.

The public are required to comply with various laws, by-laws, rules and regulations which are enforced by the council and may incur civil or criminal penalties if they do not do so.

## **Meetings of the council and committees**

### **Notice of meetings**

The council will give at least five clear days' notice of any meeting by posting details of the meeting at the council's main offices at Bodicote House, Bodicote, Banbury and normally on the council website ([www.cherwell.gov.uk](http://www.cherwell.gov.uk)), unless the meeting is convened at shorter notice as a matter of urgency.

### **Access to agenda and reports before the meeting**

The council will publish copies of the agenda for meetings and reports which are to be considered on the council website at least five clear days before the

meeting and copies will be available for inspection at the council's main office. If an item is added to an agenda later, if it is urgent business, the report will be available to members of the public as soon as possible and sent to councillors on the committee.

Agendas and reports will be supplied on request to members of the public. Agendas and reports are available for a minimum of six years after the date of the meeting.

Reports included in agendas will set out a list of background papers (non-published material used in creating the report) relating to the subject matter of the report. These background papers will be supplied at the request of members of the public and are available from the report author for a minimum of four years after the date of the meeting.

The council may make a reasonable charge for the supply of agenda, reports, minutes and background papers to cover costs.

### **Attending a meeting**

Members of the public may attend meetings of the council and its committees, except for example when confidential or exempt matters are being discussed. Unless otherwise stated in the notice of the meeting, meetings are held in the council's main offices at Bodicote House, Bodicote, Banbury. If you wish to attend a meeting customer service staff at reception will direct you to the relevant meeting room.

### **Speaking at a meeting**

Members of the public can speak request to speak at a meeting. Further information on how to speak at a meeting can be found in the meeting procedure rules and procedure rules for the particular committee as set out in the constitution.

### **Confidential and exempt matters**

#### **Confidential**

Members of the public will be asked to leave a meeting if it is likely that confidential information will be disclosed. This will usually be stated on the agenda for the meeting. Confidential information is 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.

#### **Exempt**

Members of the public may also be asked to leave a meeting if it is likely that exempt information will be disclosed. This decision is at the discretion of the meeting and will be made based on advice from officers. In making a decision to exclude the public, the committee will apply the public interest test, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Exempt information is information falling into one or more of the categories set out in the table below, subject to qualifications set out in the constitution.

<b>Paragraph Number</b>	<b>Category</b>
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: <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment.</li> </ul>
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
7A	[7A – 7C apply only to certain meetings of the Standards Committee ]  Information which is subject to any obligation of confidentiality.
7B	Information which relates in any way to matters concerning national security.
7C	The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

If reports to be included in the agenda contain confidential or exempt information they will be marked 'not for publication' together with the category of information likely to be disclosed.

### **Minutes of a meeting**

The council will produce minutes of meetings which record the decisions taken by a committee and the reasons for the decisions and options considered in the case of the executive. When exempt or confidential information is disclosed at a meeting a summary minute will be published in the public minutes, in addition to exempt or confidential minutes.

Minutes will be published on the council website and available on deposit at the council's main office for a minimum of six years after the date of the meeting.

### **Forward Plan**

Members of the public can find which major decisions are going to be discussed and determined by the executive from the Leader's Forward Plan. The Forward Plan covers a four month period and is published on the council's website on a monthly basis.

### **The public have the right to,**

- vote at local elections if they are registered
- sign a petition for a local referendum for an elected mayor
- contact their local councillor about any matters of concern to them
- a copy of the constitution
- attend meetings of the council and its executive and committees except where, for example, personal or confidential matters are being discussed
- see reports and background papers and any records of decisions made, except where confidential or personal information would be disclosed
- address meetings of the council, executive, and various committees, subject to the Council's rules for public participation at meetings
- find out, from the executive's forward plan, what major (key) decisions are to be discussed or decided by the executive, individual executive members or officers, and when
- inspect the council's accounts and make their views known to the external auditor (known as the district auditor)

- complain to the council about the standards of service, action or lack of action by the council or its staff
- complain to the ombudsman if they think the council has not followed its procedures properly (however, they should only do this after using the council's own complaints process)
- complain to the standards committee if they have evidence which they think shows that a councillor has not followed the council's code of conduct.

The council welcomes participation by its residents in its work and undertakes extensive consultation about its policies and services. For more specific advice on your rights, please contact the appropriate council department, or if you are not sure which department to contact, ask for the Legal and Democratic Services department.

### **Rules about this constitution**

**Suspension:** the rules of procedure in part two of this constitution may be suspended where such a proposal is made and seconded at a formal meeting and the suspension is agreed upon by a majority of those present. The purpose of any suspension should be to enhance the democratic process rather than restrict it.

**Interpretation:** this constitution will be interpreted in accordance with the advice given by the statutory officers at any formal meeting or their representatives at that meeting.

**Publication:** the constitution will be made available on the council's website and hard copies of the whole or any part will be available on request subject to the payment of a reasonable fee if anyone wishes to have their own copy.

**Changes:** the monitoring officer is responsible for assessing the effectiveness of the constitution and recommending changes in the light of legislation or best practice. The monitoring officer may make factual changes to the constitution as necessary in order to ensure that the constitution complies with the law.

Any significant proposed amendments to this constitution shall be considered by the executive prior to it being considered by council. The monitoring officer shall ensure that, where appropriate, members of relevant council committees are consulted on proposed amendments, prior to their consideration by the executive and that the responses to the consultation are included in any subsequent report.

## **Part 1**

### **Terms of Reference and Scheme of Delegation**

Last review date: April 2009

## **Contents**

- 1.1 Delegation of Functions
- 1.2 Terms of Reference for Committees
- 1.3 Officer Scheme of Delegation
- 1.4 General Delegation to Strategic Directors and Heads of Service
- 1.5 Schedule of Proper Officer Appointments
- 1.6 Heads of Service Delegated Powers

## **1.1 Delegation of Functions**

This section of the Constitution summarises which part of the decision making process is responsible for which function.

The allocation of functions follows the Local Authorities (Functions and Responsibilities) (England) Regulation 2000 as amended.

## **1.2 Terms of Reference for Committees**

### **Executive and Executive Portfolio holders**

This part of the constitution together with the Executive Procedure Rules principally constitutes the Executive arrangements as set out in the Local Government Act 2000. The Executive arrangements set out here are interrelated to other parts of the constitution.

The Executive is collectively responsible for all executive functions as defined in the Local Government Act 2000 as amended. These may be made by the Executive collectively, exercised under joint or area arrangements or delegated to individual Portfolio Holders or Council officers.

The Executive may not make decisions on matters which they are prohibited from making by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other subsequent legislation.

The Executive shall only make decisions within the budget and policy framework except in cases as set out in the Executive Procedure Rules.

The Executive shall collectively make all Key Decisions on behalf of Cherwell District Council. The Executive may choose to delegate these to a Portfolio Holder, officer, area committee or joint arrangements with another authority.

Executive Portfolio Holders shall in the first instance make all Non-Key Decisions within their portfolio area unless delegated in this constitution to an officer. The Portfolio Holder may decide to delegate these to an officer, area committee or joint arrangements with another authority or refer them to the Executive for collective consideration.

Officers shall take all decisions in the first instance delegated to them in this constitution within their area of responsibility. An officer may chose to refer a decision to a Portfolio Holder, who in turn may decide to refer a decision to the Executive for collective consideration.

Even where Executive functions have been delegated, this does not prevent the discharge of delegated functions by the person or body who delegated them. This shall be the case should the decision maker find that a conflict of interest has arisen, then the function will be exercised in the first instance by the person or body by whom the delegation was made



## **Decisions made under the Executive Arrangements**

A notice of any decision made under the Executive arrangements shall be published and sent to all members as soon as is practical following the decision being made in accordance with the Call-in provisions of this constitution.

## **Executive Terms of Reference**

The Executive will consist of the Executive Leader together with at least two, but not more than nine, other Councillors appointed to the Executive by the Leader of the Council. The Executive will conduct itself in accordance with this constitution and in particular the Executive Procedure Rules.

The functions of the Executive are principally to:

- make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework and all of the Council's corporate strategies
- make Key Decisions within the agreed Budget and Policy Framework
- make decisions referred to it by Portfolio Holders and officers with delegated decision making powers.

Additionally the Executive has the following specific functions:

- Setting the Council Tax Base
- Performance Monitoring and Management
- Developing Council Policy.

## **Key Decisions**

A Key Decision is a 'significant' decision that is legally within the power of the Council to make, is not precluded by statute from being made under the Executive arrangements and is not otherwise retained for decision by Council or delegated to a Committee of Council or officer by this constitution

Significance - A decision is significant if it meets the financial and/or community impact criteria:

Financial

A decision that will result in the Council:

- incurring potential revenue expenditure or savings above an amount to be determined by Council annually

- incurring potential capital expenditure or savings above an amount to be determined by Council annually
- procuring or awarding any Contract having a total value exceeding £500,000.

**and/or**

### **Community Impact**

A decision that is significant in its effects on communities living or working in an area comprising two or more Wards in the area of the Council. That is a decision where:

- A significant number of users of the service in the Ward(s) will be affected and/or
- An impact that will last for a number of years, or be permanent; and /or
- A significant impact on communities in terms of environmental and social well-being.

The following are not regarded by the Council to constitute key decisions:

- Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the budget and policy framework.
- Implementing approved actions and targets in annual service plans.
- Decisions by the Head of Finance which are part of the ordinary financial administration of the Authority, notably those relating to investments, within the agreed Treasury Management policy.
- Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union.
- The award of contracts for the provision of works, goods and services, within an agreed policy and budget and where a decision has been made.
- Changes arising from amendments to statute where there is little or no discretion.

### **Executive Portfolio Holders**

Areas of responsibility, known as Executive Portfolios are determined by the Council and are assigned by the Leader to individual Members of the Executive whom he appoints. The Leader may re-allocate functions between portfolio holders during the Council year.

The function of an Executive Portfolio Holder is to:

- Have general responsibility for the standards and performance of functions within their portfolio.
- Make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework and all of the Council's corporate strategies.
- In the first instance make Non Key Decisions within their Portfolio as allocated by the Leader of the Council.
- In the first instance make decisions referred to them by officers with delegated decision making powers.

Executive Portfolio Holders shall in the first instance make all Non-Key Decisions (as defined below) within their portfolio area unless delegated in this constitution to an officer. The Portfolio Holder may choose to delegate these to an officer or refer them to the Executive for collective consideration if any of the following circumstances apply to the matter under consideration:

- A proposed decision is deemed to be controversial either by the Portfolio Holder or the relevant Strategic Director or Service Head, or such Officer has registered major concerns about the proposed decision
- It impacts on more than one area of Council activity
- It has major resource implications
- It does not fall squarely within current policies
- The individual portfolio holder has a prejudicial interest (whereupon he shall take no part in the collective decision).

If the relevant portfolio holder is not available or unable to exercise his delegated authority at the appropriate time and in the view of the Strategic Director the decision cannot wait until their return or a meeting of the Executive, the Leader of the Council or in his absence the Deputy Leader shall have reserve powers to take a decision on the issue in question.

### **Non-Key Decisions**

All decisions that are legally within the power of the Council to make, are not precluded by statute from being made under the Executive arrangements, are not Key-Decisions and are not otherwise retained for decision by Council or delegated to a Committee of Council or an officer.

## Planning Committee

(18 members made up primarily of non-executive members, but with specific reservation of a place for Executive Member holding the portfolio responsibility for planning matters. 12 named substitute members)

Except where there is a specific delegation to a Service Head:

- (a) To determine and advise on all planning applications, all special determination and prior approval categories and any local authority development proposals, subject to the following provisos:
- That the Head of Development Control and Major Developments may refer any application to Council for final determination, where the Committee is minded to approve or refuse that application if the decision is fundamentally against local and national planning policy and/or the decision is contrary to proposals formulated by the executive or relevant portfolio holder.
  - That in accordance with the relevant Council Procedure Rule at least one third of Council Members have signed a statement to the effect that they are of the view that a particular application is of such special significance to the District that it ought to be determined by Council.
- (b) To authorise or determine:
- planning obligations;
  - all matters concerning public path orders required as a result of planning legislation;
  - advertisement consents;
  - conservation area consents and notices;
  - revocation or modification of planning permissions by order under planning legislation;
  - any enforcement action including in respect of advertisement contraventions;
  - tree preservation orders;
  - consent to carry out work to protected trees;
  - listed building consents and notices;
  - certificates of alternative development;
  - direct action by execution of works, taking steps and/or carrying out operations, by or on behalf of the Council under any current planning legislation, including the recovery of any costs or expenses;
  - legal proceedings in respect of any breach of planning obligations;
  - any other notices, orders, demands, permissions, consents and grants under current planning legislation; and

- observations, comments and representations on development proposals being determined by other bodies and/or in adjoining or nearby administrative areas.
- (c) To administer the registration and record keeping provisions contained in planning legislation.
- (d) To exercise the Council's statutory duties in respect of the Building Regulations and associated legislation.
- (e) To exercise the Council's statutory powers in respect of land drainage and associated legislation.
- (f) To do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of the functions.
- (g) To exercise all powers, duties and functions of the Council contained in or referred to in the statutory provisions from time to time in force within the terms of reference of the Committee.

### **Licensing Committee**

(12 members and 5 named substitute members based on proportional representation with each represented party having at least one substitute member)

- To deal with applications to exhibit an unclassified film, or to change the classification given to any film by the British Board of Film classification, for exhibition within the District.
- To deal with all matters which are the responsibility of the Council in relation to hackney carriage and private hire vehicles licensed by the Council, except those delegated to the Sub-Committee or Officers.
- To deal with all matters which are the responsibility of the Council under the Licensing Act 2003 except those which are delegated to the Sub-Committee or Officers.
- To deal with all matters which are the responsibility of the Council under the Gambling Act 2005 except those which are delegated to the Sub-Committee or Officers.
- To deal with all matters and determine applications which are the responsibility of the Council in relation to Street Trading under Section 115 of the Highways Act 1980 and Section 3, schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

- Any matter relating to proposed changes to the public rights of way network, and public rights of access to open country and common land, which is not the result of the consideration of a planning application.
- So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities Functions and Responsibilities (England) Regulations 2000, relating to taxi, private hire vehicle, gaming, entertainment, food and miscellaneous licensing.
- Any miscellaneous functions relating to highways which may be the responsibility of the Authority which are not discharged by the Planning Committees as set out in Part I of the Schedule to the Local Authorities Functions and Responsibilities (England) (Amendment) Regulations 2001.
- To determine Public Path Order applications (which are not the result of the consideration of a planning application) which the Head of Urban and Rural Services proposes to refuse, and (ii) (if approved) to confirm such Orders where no objections have been made within the statutory period; and (iii) to determine whether to abandon or to refer to the Secretary of State an Order to which objections have been made within the statutory period.

#### **Licensing Committee Sub-Committee**

- The hearing of, and decisions on, applications and notifications under the Licensing Act 2003 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.
- The hearing of, and decisions on, applications for review of a premises licence/Club Premises Certificate under the Licensing Act 2003.
- The hearing of, and decisions on, applications for and notifications under the Gambling Act 2005 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.
- The cancellation of club gaming/club machine permits under the Gambling Act 2005
- The cancellation of a licensed premises gaming machine permits where a permit holder requests a hearing under the Gambling Act 2005
- Consideration of a temporary use notices under the Gambling Act 2005 where an objection has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and that the Head of Urban and Rural Services is satisfied that a counter notice is not required.

- Decision to give a counter notice to a temporary use notice under the Gambling Act 2005.
- To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of licensing of hackney carriages, private hire vehicles, hackney carriage/private hire vehicle drivers and private hire vehicle operators, without prejudice to the right of applicants to appeal to the Magistrates' Court.
- To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of Street Trading and provisions of facilities on the Highway.
- To provide a forum for applicants who may wish to appeal against decision of the Head of Safer Communities and Community Development in respect of animal welfare Licensing.

**Note:** The Licensing Subcommittee will be made up of any 3 Members to be drawn from the membership of the parent Committee. Members must have received appropriate training and must have taken a non-committal approach to any lobbying in respect of the appeal to be heard, otherwise they may not participate in the hearing.

**The delegation of functions will be in accordance with the Licensing Act 2003**

### **Appeals Panel**

(10 members with no substitute members)

- To hear and determine any appeals by employees in accordance with the relevant Council procedures
- To be the investigating committee for the purpose of disciplinary action in the case of an officer covered by the terms and conditions for Chief Executives and Chief Officers where this is permitted by law.

### **Personnel Committee**

(12 members with casual substitutes who shall not be members of the Appeals Panel)

- A subcommittee of the Personnel Committee will be responsible for carrying out the appraisal of the Chief Executive. The Leader of the Council must be invited to participate in the appraisal.
- Determination and review of all policies affecting the employment of staff.

- Monitoring of employment statistics for the authority.
- To approve the creation of new posts where this will be an increase to the establishment and there is no budget.
- To receive and act on recommendations of the Council and Employee Joint Committee.
- To exercise discretion on behalf of the Council in the decision to award any enhanced pension rights.
- To agree any restructuring involving more than five posts and/or compulsory redundancies.
- Making of appointments at Strategic Director and Head of Service level. Anyone involved in the decision must be present throughout the interview process.

### **Accounts, Audit and Risk Committee**

(11 members with casual substitutes)

- Ensuring that the Council's corporate governance arrangements are adequate and operating effectively in practice.
- Considering the Council's Code of Corporate Governance and the Annual Governance Statement before approval by the Executive.
- Monitoring the effectiveness of the Council's risk management procedures, the internal control environment and counter fraud and corruption arrangements and report any concerns to the Executive.
- Endorse the annual Risk Management Strategy and recommend it to the Executive for adoption.
- Approval of the Council's Statement of Account.
- Considering any reports of internal or external auditors and agreeing the action to be taken from those reports including any recommendations to the Council.
- To consider and make recommendations on the internal audit plan.
- To consider a report on the effectiveness of the internal audit system at least annually.
- To consider risks associated with significant partnerships entered into by the Council and to receive reports on the management of those risks.



- To receive the District Auditor's management letter and make recommendations arising from it.
- To produce an annual report to Council on the activities of the committee

### **Standards Committee**

(Membership as set out in the standards committee procedure rules)

- Promoting and maintaining high standards of conduct by Councillors and co-opted members.
- Assisting the Councillors and co-opted members to observe the Members' Code of Conduct.
- To provide advice and guidance on the Code of Conduct for members of parish and town councils.
- Advising the Council on the adoption or revision of the Members' Code of Conduct.
- Monitoring the operation and effectiveness of the Members' Code of Conduct.
- Advising, training or arranging to train Councillors, employees and co-opted members on matters relating to the Members' Code of Conduct.
- Assessment and review of complaints about Members, to conduct determinations' hearings and to impose sanctions as a consequence of a finding of misconduct within the limits set by statutory regulations and following the Standards Board Guidance.
- Granting dispensations to Councillors, co-opted members and Parish and Town Councillors from requirements relating to interests set out in the Members' Code of Conduct.
- Granting exemptions for politically restricted posts.
- To make representation to the Local Government Association, Central Government and Standards Board about any matter relating to the general principles of conduct for Members or employees of the Council.
- To be responsible for liaison between the Council and external agencies in connection with any matter within the Committee's Terms of Reference.
- Provide advice and guidance to Councillors appointed to serve as the Council's representatives on outside bodies.

- To produce an annual report to Council on the activities of the committee.
- To act as a selection panel and to advise the Council on the appointment of independent members and Parish Representatives on the Committee.
- To carry out a general review of the Council's procedures, including the Council's Constitution, where changes are proposed which may impact on the ethical framework and to report to the Council any changes required. Only changes which may impact on the ethical framework need to be considered by the Standards Committee. Whether there is such an impact shall be determined by the Head of Legal and Democratic Services.

The Standards Committee may appoint subcommittees to exercise functions in relation to the hearing, adjudication and determination of any sanction, of cases pursuant to Sections 57A and 57B of the Local Government Act 2000 involving:

- the initial assessment of an allegation;
- the review of any decision to take no action in respect of an allegation;
- a direction that action is taken other than to refer an allegation for investigation and
- the hearing and determination of a complaint and the imposition of a sanction as appropriate following a completed investigation by the Monitoring Officer.

### **Overview and Scrutiny Committee**

(12 members with 2 named substitutes for each political group)

The Overview and Scrutiny Committee has overall responsibility for the performance of all overview and scrutiny functions (under Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007) on behalf of the Council and ensuring its effectiveness.

- To consider and call in decisions relating to the discharge of Executive functions before those are put into effect. The Overview and Scrutiny Committee can ask the Executive to reconsider any such decision (or, exceptionally, refer it to Council).
- To consider decisions relating to the discharge of the Executive functions after they are put into effect.

- To consider the Forward Plan and comment as appropriate to the decision-maker on key decisions (before they are taken by the Executive).
- To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task and Finish Group.
- To make suggestions on the development of policies and suggest new policies where appropriate.
- To work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
- To assist the Executive in the development of the Budget and Policy Framework.
- To receive and consider recommendations on issues requiring scrutiny in terms of wellbeing powers of Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007 and, where appropriate, establishing Task and Finish Groups, or referring to the Resources and Performance Scrutiny Board, topics for scrutiny.
- To create Task and Finish Groups and set their terms of reference, in order to fulfil the overview and scrutiny requirements of the authority and the annual overview and scrutiny work programme.
- To receive reports, presentations and updates in order to scrutinise the Executive's priorities for and its performance in the year.
- To review and scrutinise the performance of the Executive, Executive Portfolio Holders, and appropriate officers both in relation to individual decisions and over time.
- To approve an annual overview and scrutiny work programme, including the power to request and receive the work programme of the Resources and Performance Scrutiny Board and Task and Finish Groups it appoints so as to ensure that their time is effectively and efficiently utilised and that the potential for duplication of effort is minimised.
- To produce a unified annual report for the whole scrutiny process, with sections provided by the Resources and Performance Scrutiny Board and each of the Task and Finish Groups.
- To allocate money from approved overview and scrutiny budgets for its own use, and upon request to the Resources and Performance Scrutiny Board and Task and Finish Groups to support them in meeting their objectives and further the overview and scrutiny work programme and development.

- The overview and scrutiny work programme will not include the following “excluded matters”:
  - a) Any matter relating to a decision on a specific planning application
  - b) Any matter relating to a decision on a specific licensing application
  - c) Any 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; including but not limited to:
    - Standards decisions and items which may be brought for decision;
    - Appeals decisions and items which may be brought for decision;
    - Breaches of the Constitution and its protocols e.g. Code of Conduct;
    - Matters relating to the terms and conditions of employment or conduct of individual or groups of staff or Members.
  - d) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.
  - e) Audit process and items which are likely to be considered by the Audit process.
  - f) Matters within the proper remit of the Section 151 and Monitoring Officers.
  - g) Matters relating to a particular identifiable service recipient or potential service recipient.
  - h) Complaints or matters before the courts or local government Ombudsman.
  - i) Contractual matters, other than performance monitoring and review, except with the agreement of the Executive.

### **Resources and Performance Scrutiny Board**

(12 members with 2 named substitutes for each political group)

The Resources and Performance Scrutiny Board has responsibility for carrying out overview and scrutiny for the Council’s resources, performance and effectiveness of Partnerships to which the Council appoints representatives.

- To scrutinise the Council's performance in relation to financial planning, including budgets and target setting.
- To assist and monitor the Executive in the continued development of a medium term budget strategy.
- To review the management of resources made available to the Council and to scrutinise its financial management, treasury management, property and asset acquisition and disposal, capital programme and to evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management.
- To perform the overview and scrutiny function in relation to all of the Council's corporate performance and value for money activity. In particular the effectiveness of partnerships of which the Council is a member and to carry out the scrutiny of partnerships as set out in Local Government and Public Involvement in Health Act 2007.
- To review the local authority's strategic performance and monitor year-on-year performance indicators and benchmarking.
- To review the progress of Services in achieving the objectives of their Business Plans and their contribution to the Corporate Plan and Community Strategy.
- To undertake performance monitoring and review of contractual arrangements that the Council has entered in to.

### **1.3 Officer Scheme of Delegation**

This scheme sets out the extent to which the powers and duties of the Council is delegated to officers. The scheme operates under the Local Government Act 1972 and the provisions for delegation authorised by that Act and any subsequent relevant legislation.

Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the Executive on executive functions and the relevant the Chairman of one of the regulatory committees when the matter falls within the remit of that committee.

All references to legislation in this scheme shall be deemed to include any subsequent amendments to such legislation.

Officers shall inform the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be regarded as politically sensitive or contentious.

Officers shall consult as appropriate and have due regard to advice given. In particular Officers should consult with legal, finance and human resources.

Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the authority to commission and monitor work for and on behalf of the Council by people who are not officers of the authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business.

**It is always open to an officer not to exercise delegated powers but to refer the matter to the Executive, one of the regulatory committees or to Council for a decision.**

### **Conditions of delegation**

- The Council authorises the officers identified to exercise the powers set out and all powers delegated to Strategic Directors and Heads of Service may be exercised by any other duly authorised officer on their behalf.
- The powers delegated to Heads of Service may be exercised by the appropriate Strategic Director or the Chief Executive.
- Any exercise of delegated powers shall comply with statutory restrictions, all policies and plans approved by the Council, the Council's Contract and Financial Rules of Procedure and the Council's Code of Conduct and adopted protocols.
- Any exercise of delegated power must be made within the approved revenue and capital budgets (subject to any discretion permitted by the Financial Rules of Procedure).
- Any acceptance of quotations and tenders must be in accordance with the Council's Contract Rules of Procedure.
- Any exercise of delegated powers shall have regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972.

### **1.4 General Delegation to Strategic Directors and Heads of Service**

All Strategic Directors and Heads of Service have the following delegated authority unless explicitly limited to certain Heads of Service.

#### **Equipment**

- Purchase of vehicles, plant and equipment for which expenditure has been approved subject to any policy for standardisation (but if the purchase involves a leasing arrangement such arrangement

must be made by the Strategic Director Customer Services and Resources as Section 151 officer).

- Hire of plant subject to inclusion of cost of hire within approved estimates.
- Disposal of surplus plant, equipment and materials.

## **Legal**

- Service of requisitions for information as to ownership of, or other interests in, any land or property under statutory powers.
- Service of requisitions for information under the Crime and Disorder Act 1998.
- The release of Council held information under the Data Protection Act 1998 and the Freedom of Information Act 2000 subject to consultation with the Head of Legal and Democratic Services on any application of exemptions.
- To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council.
- Authority to apply for planning permission in respect of small projects and minor modification to projects.
- To grant renew refuse or cancel any authorisation that may be required under the Regulation of Investigatory Powers Act 2000 so far as it affects their service area. This power may only be exercised by those Heads of Service who have investigating officers in their service area or by the Monitoring Officer, the Deputy Monitoring Officer or the Chief Executive.
- To sign licences and notices relevant to their service area subject to consultation with the Head of Legal and Democratic Services where necessary.
- Authority to appear, institute proceedings, prosecute, defend, negotiate a settlement and take any steps necessary in any proceedings on behalf of the Council where the matter falls within the remit of the relevant service unit. Such authority to be exercised subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Formal responses to consultation documents.
- To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area.

- Service of any statutory notices affecting their service area subject to consultation with the Head of Legal and Democratic Services where appropriate.
- To authorise the carrying out of work in default of compliance with any statutory notice subject to consultation with the Head of Legal and Democratic Services.
- To authorise an employee to admit liability or to negotiate a settlement of any professional negligence liability claim made against that employee subject to consultation with the Head of Legal and Democratic Services.
- To authorise in writing those officers, or agents, or consultants acting on behalf of the Council who may exercise statutory powers under the relevant legislation and a copy of the authorisation must be supplied when made to the Head of Legal and Democratic Services.

### **Financial**

- Authority to incur expenditure within approved capital and revenue budgets.
- Fixing of charges for work for external bodies where the charges are not prescribed by legislation.

### **Human Resources**

- Appointment of agency staff provided costs are contained within service budgets.
- Advertisement of vacancies within establishment in accordance with establishment controls procedures.
- Appointment of staff below second tier.
- To sign job offers and/or contracts of employment for Strategic Directors (by Chief Executive), for Heads of Service (by Chief Executive or relevant Strategic Director), or other employee appointments (by Strategic Director, Head of Service or other officer delegated by one of these).
- To agree flexible contracts and working patterns including job share, home working and term time working ( in consultation with the Head of Human Resources).
- To confirm appointments on completion of probationary period.
- To implement the Council's employment procedures in line with agreed Council policy.



- To authorise officers to attend professional or educational meetings, conferences or courses in consultation with the Learning and Development Manager.
- Authorising of on-going training and individual qualification training courses subject to consultation with the Learning and Development Manager.
- To agree unpaid leave of absence and compassionate leave in consultation with the Head of Human Resources.
- Granting of contractual salary progression within career-graded posts in line with agreed Council policy and in consultation with the Head of Human Resources.
- To approve revised job descriptions and job titles where no grading increase is involved subject to the approval of the Head of Human Resources.
- The general organisation of services within the policies laid down by the Council.
- Subject to consultation with the Head of Human Resources, the Head of Finance and the Head of Legal and Democratic Services to determine new organisation structures below Head of Service provided that
  - changes do not affect more than five posts in any one restructuring
  - there are no resultant compulsory redundancies
  - change is with the agreement of existing staff
  - change can be contained within service budgets

## **Contracts**

- Authority to commence a procurement process leading to the award of a contract for works goods or services up to £150,000.
- Authority to waive the requirement to seek tenders or quotations in relation to contracts for works, goods or services below £5,000.
- Authority to approve negotiations with a tenderer submitting the Most Financially Advantageous Tender to obtain improvements in price, delivery or content in relation to contracts for works, goods or services below £150,000.
- Authority to approve the award of any contract for the procurement of works, goods or services up to £150,000.
- Signing on the Council's behalf any contract for works, goods or services below £100,000.

## **Emergencies**

If the Council needs to act urgently in any matter (including, without limitation, complying with the Emergency Plan, the Business Recovery Plan or taking any action under new legislation) the Chief Executive may authorise any action taken or expenditure incurred as necessary. A Strategic Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive or Strategic Director as appropriate may delegate responsibility to a Head of Service or other nominated officer where appropriate. All such action shall be reported to the relevant committee, Executive or Council as may be appropriate at the earliest opportunity.

## **Delegation to Chief Executive and Specific Directors**

### **Chief Executive**

**This post has responsibility for the Council's overall management of the staff who work for the Council under section 4 of the Local Government and Housing Act 1989. Full details of the responsibilities are set out in the introduction to this constitution**

- Determination of appeals from people dissatisfied with a decision not to release Council held information under the Freedom of Information Act 2000.
- The suspension or dismissal of a Strategic Director or Head of Service subject to consultation with the Head of Human Resources and the Head of Legal and Democratic Services. If the suspension or dismissal is of either of these two posts external professional advice will be sought.
- Taking action under the Anti-Social Behaviour Act 2003 where the Chief Executive is specifically named as the relevant Council Officer within the Act.
- Authority to take such action and make such decisions as are necessary as Electoral Registration Officer and Local Returning Officer.
- Assigning officers in relation to requisitions of the Electoral Registration Officer.
- Providing assistance at European Parliamentary elections.
- Power to fill vacancies in the event of insufficient nominations and make temporary appointments to Parish Councils.
- Declaring vacancies in office in certain cases and giving notice of casual vacancies.

- Consulting on proposed changes to the scheme of elections.
- Duties relating to providing notice to the Electoral Commission and relating to publicity.

### **Strategic Director, Planning Housing and Economy**

No specific delegated powers

### **Strategic Director, Environment and Community**

No specific delegated powers

### **Strategic Director Customer Services and Resources**

**This post has responsibility for the Council's financial affairs under section 151 of the Local Government 1972 and section 114 of the Local Government Finance Act 1988 and provides strategic financial advice to the Council. Full details of the responsibilities are set out in the introduction to this constitution and in the Financial Regulations.**

- Power under section 92 of the Local Government Act 2000 to direct the appropriate Strategic Director or Head of Service in consultation with the relevant Portfolio Member to make ex gratia payments up to £5,000 or to provide other benefits to remedy complaints within the framework of the Local Government Ombudsman Good Practice Remedies (February 2005) document where necessary in consultation with the Monitoring Officer
- To use any other powers as the Council's Section 151 officer as defined in the Council's Financial Regulations and via statute.
- The power to opt to tax properties for VAT purposes
- Raising of loans to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary, subject to the Council's Capital Programme decisions on financing and in particular its policy on being debt free
- Borrowing in sterling from banks up to a prescribed limit by way of overdraft, subject to not breaching the Council's debt free status by borrowing for longer than one year.
- Raising and repayment of temporary loans in sterling
- To accept terms and conditions attached to any Government grants
- To make any changes to the Constitution consequent upon amendments to the European thresholds on Procurement.
- The entering into of any lease agreements on behalf of the Council

## 1.5 Schedule of Proper Officer Appointments

The relevant postholders listed below have been appointed as Proper Officers for the purposes of the adjacent legislative provisions:

<b>Legislative Provision</b>		<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of declaration of acceptance of office	• Chief Executive
S.84(1)	Receipt of notice of resignation of elected Member	• Chief Executive
S.88(2)	Convening a meeting of Council to fill casual vacancy in the office of Chairman	• Chief Executive
S.89(1)(b)	Notice of casual vacancy	• Chief Executive
S.96(1)&(2)	Receipt of notices and recordings of disclosures of pecuniary interest	• Head of Legal and Democratic Services
S.100	Admission of public (including press) to meetings	• Chief Executive
S.115(2)	Receipt of money due from officers	• Strategic Director Customer Services and Resources
S.146(1)(a)&(b)	Declarations and certificates with regard to transfer of securities	• Strategic Director Customer Services and Resources
S.151	Financial Administration	• Strategic Director Customer Services and Resources
S.204(3)	Receipt of notice of application for a justices' licence under the Licensing Act 1964	• Head of Urban and Rural Services
S.225	Deposit of documents	• Chief Executive
S.228(3)	Accounts for inspection by any member of the Council	• Strategic Director Customer Services and Resources
S.229(5)	Certification of photographic copies of documents	• Head of Legal and Democratic Services
S.234	Authentication of documents	• Head of Legal and Democratic Services
S.236(9)&(10)	Sending of copies of byelaws to parish	• Head of Legal and

	councils, parish meetings and county council	Democratic Services
S.238	Certification of byelaws	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
Various	Any requirement in relation to Parish authorities	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>

Sections	specified in the Act (or in other legislation)	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Schedule 12</b>		
para 4 (2)(b)	Signing of summons to Council meeting	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
para 4 (3)	Receipt of notice regarding address to which summons to meeting is to be sent	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
<b>Schedule 14</b>		
para 25	Certification of resolution passed under this paragraph	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Schedule 16</b>		
para 28	Deposit of lists of buildings of special architectural or historic interest	<ul style="list-style-type: none"> <li>• Head of Planning and Affordable Housing Policy</li> </ul>
S.191(2)	Applications under Section 1 of the Ordnance Survey Act 1891	<ul style="list-style-type: none"> <li>• Head of Planning and Affordable Housing Policy</li> </ul>
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available.	<ul style="list-style-type: none"> <li>• Monitoring Officer</li> </ul>
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
S.41(1)	The purposes of Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 – Certification of documents	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Local Authorities Cemeteries Order 1977</b>		
	The purposes of the Order	<ul style="list-style-type: none"> <li>• Head of Environmental Services</li> </ul>
<b>Data Protection Act 1998</b>		
	Ensuring compliance with the statutory provisions and principles of the Act	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	<ul style="list-style-type: none"> <li>• Head of Human Resources</li> </ul>
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>

## Groups

### **Local Government Act 2000**

S.34	Determine whether a petition is valid	<ul style="list-style-type: none"><li>• Electoral Registration Officer</li></ul>
S.99 & S.100	Regarding Members' allowances and pensions and having regard to all relevant Regulations, including The Local Authorities (Members' Allowances) (England) Regulations 2003, and The Local Government Pension Scheme and The Discretionary Compensation (Local Authority Members in England) Regulations 2003.	<ul style="list-style-type: none"><li>• Head of Legal and Democratic Services</li></ul>
	Various sections dealing with the holding of referendums	<ul style="list-style-type: none"><li>• Electoral Registration Officer</li><li>• Head of Legal and Democratic Services</li></ul>
	For the purposes of duties in respect of The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	

### **Clean Air Act 1993**

S.51 & S.56	To exercise all functions conferred by Sections 51 and 56 of the Act	<ul style="list-style-type: none"><li>• Head of Environmental Services</li></ul>
-------------	--	--

### **Housing Act 1985**

S.606	Submission of reports on particular houses or areas by the proper officer	<ul style="list-style-type: none"><li>• Head of Housing Services</li></ul>
-------	---	--

### **Public Health (Control of Disease) Act 1984**

- |      |   |   |
|------|---|---|
| S.18 | Information to be furnished by occupier in case of notifiable disease or food poisoning | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
|      | Control of infected articles intended to be washed at Laundry                           | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.31 | Certification by officer of need for disinfection of premises                           | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.32 | Certification by officer of need to remove person from infected house                   | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |

### **Public Health Act 1936**

- |            |  |   |
|------------|--|---|
| S.79       | To serve notice to require removal of noxious matter   | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.84&85(2) | To serve notice requiring remedial action where there are filthy and verminous premises, persons or articles | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |

### **Public Health Act 1961**

- |      |                                |   |
|------|--------------------------------|---|
| S.37 | To seize any verminous article | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
|------|--------------------------------|---|



## **MEDICAL (PROPER OFFICER) PROVISIONS**

The person appointed as the Proper Officer (Medical) from time to time is the proper officer for the following legislative provisions:

### **Public Health (Control of Disease) Act 1984**

- S.11 Cases of notifiable disease and food poisoning to be reported
- S.20 Stopping of work to prevent spread of disease
- S.21 Exclusion from school of child liable to convey notifiable disease
- S.22 List of day pupils at school having case of notifiable disease
- S.36 Medical examination of group of persons believed to comprise carrier of notifiable disease
- S.40 Medical examination of inmates of common lodging house
- S.42 Closure of common lodging house on account of notifiable disease
- S.43 Person dying in hospital with notifiable disease
- S.48 Removal of body to mortuary or for immediate burial
- S.59 Authentication of documents relating to matters within his province

### **National Assistance Act 1948**

- S.47(2) Removal to suitable premises of people in need of care and attention

### **National Assistance (Amendment) Act 1951**

- S.1 Certification of the need for immediate attention

## **Public Health (Control of Disease) Act 1984**

- |      |  |
|------|--|
| S.35 | Justice's order requiring person to be medically examined                          |
| S.37 | Justice's order requiring person with notifiable disease to be removed to hospital |
| S.38 | Justice's order requiring detention in hospital of person with notifiable disease  |

To make application, on behalf of the Council under Section 1(1) of the National Assistance (Amendment) Act 1951

### **1.6 Heads of Service Delegated Powers**

#### **Head of Building Control and Engineering Services**

##### Highway and Related Matters

- Naming and renaming of streets, the renumbering of streets, and the renumbering of properties, subject in all cases to consultation with the appropriate Ward Member(s) and, in the case of renaming where an objection has been received in response to the statutory notice, to consideration of the objection and final determination by the portfolio holder.
- Numbering of properties.
- Provision of nameplates and direction signs.
- Arrangements for the making up and adoption of new streets subject to the guidelines and specifications set by the Highway Authority.
- Submission of responses to the Highway Authority in respect of consultations and advertisements for proposed Traffic Regulations Orders and responses to consultation on applications for tourism signage in consultation with the Head of Urban and Rural Services.

##### Building Regulation Matters

- Approval of plans submitted in accordance with the Building Regulations, rejection of those not in accordance with those Regulations and approval of applications for relaxation or dispensation from the Regulations.

- Collection of charges payable under the Building Regulations and the repayment of charges where refunds are due.
- Agreeing or challenging estimates submitted for calculating Building Regulation fees and charges.
- Revision of Building Regulation fees and charges to ensure full cost recovery of the service subject to consultation with the Head of Finance.
- Variation of individual charges from the prescribed scale of fees and charges, if required, subject to consultation with the Head of Finance.
- Taking action in respect of dangerous structures.
- Approval of temporary structures under the Public Health Acts and the Building Regulations and the renewal of such consents.
- Taking action when Building Regulations are contravened in consultation with the Head of Legal and Democratic Services where this involves legal proceedings to ensure that the Head of Legal and Democratic Services is satisfied as to the evidence.
- Service of Notice under the Building act 1984, authorising works of demolition.

#### Drainage Matters

- Service of notices relating to defective or blocked private drains, sewers and watercourses and the authorising of work in default of such notices
- Inspection, repairs, cleansing and maintenance of drains, sewers and similar services

#### **Head of Development Control and Major Developments**

##### General Planning Matters

- Determination of applications for planning permission, listed building consent, conservation area consent and advertisement consent.
- Determination of applications for Certificates of Lawfulness of an Existing Use or Development or a Proposed Use or Development subject to consultation with the Head of Legal and Democratic Services.
- Requiring an applicant to enter into a planning agreement, obligation or similar agreement with the Council, County Council or other statutory undertaker in respect of planning, highways, drainage or other matters where the Head of Development Control and Major Developments

intends to grant permission for an application determined under delegated powers.

- Determination of all application registration and administration matters.

Subject to the qualifications reserving powers to the Planning Committee as follows:

Delegated powers will not be exercised if the application (or case) is for 10 or more dwellings or the area of the site is greater than 0.5 hectares, or if the floorspace created is 5000 square metres or more, or the area on which the site is to be developed is more than one hectare.

Delegated powers will not be exercised if the recommendation for approval is contrary to planning policy, if the application (or case) is by, or relates to the Council (other than minor applications) or affects Council owned land, if there is any potential conflict of interest affecting a Council employee or their partner or spouse or if the application (or case) involves a proposed variation or discharge of a section 106 legal agreement.

Delegated powers will not be exercised in relation to consultation responses on County Matter cases for winning and working of materials or the use of land for mineral working deposits, or waste development.

Delegated powers will not be exercised if a Member representing the ward in which the application site is situated has, within 21 days of publication, requested in writing, with relevant planning reasons (e.g. an application generating significant local concern, or where the material considerations are finely balanced or where the site has a planning history that makes it appropriate for consideration by committee), that the application be referred to Planning Committee. Such requests shall be accepted on the advice of the committee chairman, or in his absence the vice-chairman. If the matter is referred to committee the ward member must attend that planning committee or send another nominated member to speak.

All delegated powers will be exercised on the basis of taking into account all material planning considerations, including any written planning objections or representations, in accordance with planning legislation, regulations and procedures and will be exercised at the expiry of the relevant consultation period.

The Head of Development Control and Major Developments shall determine what matters are “minor” for the purposes of exercising these delegated powers.

The Head of Development Control and Major Development shall report details of all applications determined by him under his delegated powers.

Planning Enforcement

All delegated enforcement powers in this section shall be exercised in consultation with the Head of Legal and Democratic Services.

Any legal proceedings are subject to the Head of Legal and Democratic Services being satisfied as to the evidence.

- Authorising the issue and service of any Requisition for Information and to institute and continue to final judgement legal proceedings where appropriate for failure to reply, or for inadequate replies.
- Authorising in writing those officers, or agents or consultants acting on behalf of the Council, who may exercise statutory powers of entry under the Planning Acts.
- Authorising and serving any notice of entry and to authorise application for any warrant to enter land.
- Authorising the taking of enforcement action including stop notices and temporary stop notices and authorising the instituting and continuing to final judgement of legal proceedings for non-compliance with enforcement action, if necessary.
- Authorising the issue and service of breach of condition notices and to institute and continue to final judgement any legal proceedings for non-compliance, if necessary.
- Authorising the issue and service of any planning contravention notices, and dealing with all other matters in connection with such notices including instituting and continuing to final judgement any legal proceedings for non-compliance with such notices.
- Authorising the taking of prosecution proceedings for the unauthorised display of advertisements and the serving of discontinuance notices relating to breaches of Advertisement Regulations.
- Authorising the service of a building preservation notice in cases of urgency.
- Authorising the instituting and continuing to final judgement of any legal proceedings where there is a breach of a planning agreement/ obligation entered into with the Council in a case where the Head of Development Control and Major Developments has granted permission for an application under delegated powers.
- Seeking an injunction to restrain breaches of planning control including breaches of planning and related agreements.
- Authorising the issue and service of enforcement notices, stop notices and temporary stop notices in cases of urgency and, if necessary,

authorising the instituting and continuing to final judgement of legal proceedings for non-compliance with such notices.

- To take such enforcement action as is necessary where work is being undertaken on trees in a Conservation Area.

#### Planning Prior Approvals

- Determination of applications as to whether prior approval is required for:
  - method of demolition of building and any proposed restoration of a site
  - siting and appearance of telecommunications development
  - siting, design and external appearance of an agricultural or forestry buildings, the siting and means of construction of a private way for agriculture or forestry agricultural/forestry permitted development.

#### Trees, Hedgerows and Paths

- Determination of all applications for felling, topping, lopping or uprooting of tree(s) subject to a Tree Preservation Order.
- Authorising Tree Preservation Orders subject to consultation with the Head of Urban and Rural Services.
- Registration, administration and determination of notifications under the Hedgerow Regulations subject to consultation with the Head of Urban and Rural Services on whether or not a hedgerow retention notice should be issued.
- Approving applications for the making of a Public Path Order resulting from a planning application and approving confirmation where no objections are made within the statutory period.

#### Other Planning Matters

- Siting of post boxes and telephone kiosks.
- Consultation and response to applications to remove public call boxes subject to consultation with the Portfolio Holder.
- Setting and enforcement of frontage and improvement lines.
- Making Directions to restrict permitted development subject to consultation with the Head of Legal and Democratic Services and the Portfolio Holder.

- Responding to consultations on applications which would be delegated to the Head of Development Control and Major Developments if the Council was the determining authority.
- Determination of applications for hazardous substances consent including the variation or removal of conditions imposed upon a hazardous substance (or deemed) consent.
- Making observations and objections to applications for licences for Goods Vehicle Operating Centres and related matters.
- Determination of requests for an opinion, including screening and scoping opinions and directions to determine whether enforcement is required and to undertake all functions under Environmental Impact Assessment Regulations.
- Issuing directions requesting further details on outline applications.
- Consideration and determination of acceptance or otherwise of minor variations of conditions, minor amendments to approved plans and minor variations of materials and other matters following the granting of planning permission or other consents.
- Consideration and determination of acceptance or otherwise of minor variations (not heads of terms) of planning agreements or obligations, subject to consultation with the Head of Legal and Democratic Services, the Ward Member and the Chairman (or in his/her absence) the Vice-Chairman of the Planning Committee.
- Determination of whether or not to grant an extension to the statutory consultation period on applications.
- Determination as to whether or not planning permission is required for any proposed development.
- Deciding whether to reconsult on revised plans received whilst an application is under consideration.
- Declining to determine repetitive applications for planning permission.
- Deciding the extent of non-statutory neighbour or general public consultation and advertisement on applications and other planning matters.
- Authorising the acquisition of open space land in planning agreements subject to consultation with the Head of Urban and Rural Services on the required standards for adoption.
- Responding to consultations on proposals for the erection or modification of overhead power lines and ancillary equipment.

## **Head of Economic Development and Estates**

- Day to day estates management of the Council's investment portfolio of land and buildings including lease renewals, surrenders, assignments and rent reviews.
- Agreements to the grant or acquisition of easements and wayleaves to an unlimited value subject to consultation with the portfolio holder.
- Agreements to the grant or acquisition of leases and licences up to a value of £100,000 per annum.
- Agreements to purchases and sales of land up to a consideration of £250,000 subject to consultation with the portfolio holder.
- Variation or release of restrictive covenants up to a value of £250,000 subject to consultation with the portfolio holder.
- Settlement of compensation claims submitted on behalf of or received by the Council relating to the use of statutory powers to acquire an interest in land.
- Submitting and settling appeals on rating assessments.
- Agreement not to exercise right of pre-emption reserved in the sale of Council property in consultation with the portfolio holder.
- Service of Notices relating to additional shared ownership shares.

## **Head of Environmental Services**

All matters relating to:

- Abandoned vehicles.
- Cleansing of streets.
- Statutory notices on provision of dustbins.
- Removal of obnoxious matter.
- Disposal of the dead in the absence of next of kin.
- Discharge of agency powers under Sections 132 and 149 of the Highways Act 1980, for the removal of unauthorised signs or marks on the highway.



- Abandoned shopping trolleys including notices under Section 2(a) of Schedule 4 of the Environmental Protection Act 1990 and implementation of Section 99 and Schedule 4 of the Environmental Protection Act 1990.
- Taking action under the Clean Neighbourhoods and Environment Act 2005, where necessary in consultation with the Head of Legal and Democratic Services who must be satisfied as to the evidence if legal proceedings are to be taken.
- Investigating and prosecuting offences under the Environmental Protection Act 1990 subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Acquisition, management, hire, disposal of vehicles, plant, equipment, subject to Council's Financial and Contract Rules of Procedure.
- To compile and maintain register of contaminated land, pursuant to Section 143 of the Environmental Protection Act 1990.
- Control of pests and vermin.
- All matters in relation to the Road Traffic (Vehicle Emissions) ( Fixed Penalty) ( England) Regulations 2002 ( relates to emissions of smoke, vapour, gasses, oily substances and air quality).

#### **Head of Exchequer Services**

- Proceedings for recovery of Rate and Council Tax arrears.
- Completion notices relating to rating of unoccupied property.
- Refunds of rates for a maximum period of six years on commercial industrial premises where clerical or arithmetical error has been made on rateable value subject to consultation with the Head of Finance.
- Agreements to alter the Valuation List.
- Making proposals for the alteration of the Valuation List and inclusion of particular properties on the Valuation list.
- Serving notice on the Valuation Office of objection to any proposals for alteration of the Valuation list.
- The arrangement of all necessary insurances.
- The approval of the level of court costs in proceedings for recovery of debts including the recovering of rate arrears.

- The determination of eligibility for discretionary rate relief under Section 47 of the Local Government Finance Act 1988 and the category under which a property is deemed eligible.
- The determination of eligibility for mandatory rate relief under Section 43 or Section 45 of the Local Government Finance Act 1988 and the category under which a property is deemed eligible.
- Rating (Disabled Persons) Act 1978 section 2 – granting of rebates to institutions.
- Determination of the due date for Council Tax.
- Determination of the due date for business rates for business ratepayers paying by instalments.
- Management of the collection of Council Tax and Business Rates.
- Administration and management of the housing benefit scheme and the determination of all matters arising in respect of the claims of applicants subject to any appeals procedures to which applicants may be entitled.
- Administration of Council Tax which includes the power to write off up to £5,000 arrears of council tax for any one individual property.
- Authority to write off up to £5,000 on business rates.
- Application of the Council's Benefits prosecution policy.
- Granting of hardship relief, equivalent to the level of discretionary charity relief, to those organisations qualifying for discretionary charity relief where those organisations occupy newly erected property and are unable to submit an application for discretionary charity relief in time for the Council to decide to grant such relief from the dates of occupation of such property.
- Making of appropriate determinations under the Village Shop Rate Relief Scheme.
- Award of discretionary housing payments up to £5,000.
- Agreement as to reduction in rateable value.

### **Head of Finance**

- The recovery of arrears or debts not involving Court action.
- Investment of all surplus Council funds in accordance with the Council's annual Treasury Management Policy.

- The writing off of bad debts where debtor is bankrupt, insolvent or has ceased to trade.
- The writing off of any bad debts up to a maximum of £5,000.
- Authority to write off up to £10,000 arrears of Council tax or business rates. Any write off above that limit must be an individual portfolio holder decision.
- Authority to write off up to £10,000 of Housing or Council Tax benefits.
- Declaration of the local average interest rate in accordance with Section 438 and Schedule 16 of the Housing Act 1985 and implementation of any changes arising.
- Accounting for the collection of all sums due, including those collected on behalf of other bodies, and the disbursement of such sums to the bodies concerned.

### **Head of Housing Services**

- Negotiating and acting on behalf of the Council in any residual matters following completion of the LSVT process in accordance with Council policy, subject to decisions of principle being agreed in consultation with the appropriate Portfolio Holder.
- Adaptations or alterations of houses for the physically disabled.
- Determining homelessness applications, and implementation of the review procedure in respect thereof.
- Approval of renovation of common parts, disabled facilities, Houses in Multiple Occupation and minor works grants and the exercise of any discretion in respect thereof, subject to any requirements of the Council's policy in respect thereof.
- Service of statutory notices where required in cases of urgency.
- Exercise of all powers under the Housing Act 2004
- Authorisation in writing those officers, or agents, or consultants acting on behalf of the Council who may exercise statutory powers of entry under the Housing Acts.
- Authorisation in writing those officers, or agents or consultants acting on behalf of the Council who may exercise statutory powers to require the production of documents.
- Admission of applicants to the Housing Register.

- Allocation of Council houses to applicants on the Housing Register, or the nomination of such applicants to registered social landlords in accordance with the priority given by the allocations scheme approved by the Council.
- Granting, in exceptional cases, of housing advances not in accordance with the approved schemes, subject to consultation with the Portfolio Holder.
- Consultation with tenants concerning proposed variations in the conditions of tenancy, subject to consultation with the Portfolio Holder.
- Service of Notices of Intention to Seek Possession or Notices to Quit in respect of failure to pay rent, and/or any other breach of tenancy agreement, service to be in accordance with approved procedure.
- Institution and continuance of County Court proceedings for rent arrears or possession based upon rent arrears, and/or any other breach of tenancy agreement, after the expiry of a notice to quit and the continuance thereof to include all steps necessary in the proceedings including the obtaining of judgement and any steps necessary to enforce the judgement including the obtaining of a warrant of possession and the execution thereof subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Authorisation of legal proceedings for offences under the Rent Act, the Landlord and Tenant Act, the Protection from Eviction Act and the Housing Acts subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Granting of housing advances in accordance with the approved scheme and ancillary matters, including the arrangements for the discharge of mortgages.
- Exchanges of tenancies and the sub-letting of houses.
- Operation of the procedures for Access to Personal Files under the Access to Personal Files (Housing Regulations), 1989.
- Employment of tracing agents (if deemed to be prudent and necessary) to attempt to locate former tenants with outstanding rent arrears.
- Reimbursement to tenants leaving Council houses of the cost of improvements carried out by them.
- Service of statutory notices on insufficient or defective toilet accommodation.

## **Head of Human Resources**

- The implementation of national and local agreements to be made in consultation with the Head of Finance in relation to wages and salaries.
- Progression of Officers through career-graded posts.
- Recruitment and retention procedures.
- Administration of Council's car provision and assisted car purchase scheme in consultation with the Head of Finance.
- Approval of extensions of sick pay at full or half pay as provided for in the National Conditions of Service.
- Agreement and refusal of applications for regrading of posts.
- Developing and implementing a corporate skills and development training programme.
- Issue of pensions protection certificates under Regulation 23 of the Local Government Pensions Scheme Regulations 1997 in consultation with the Head of Finance (no longer available from 1/4/08 but updates on previously issued ones may be requested).
- Setting aside the policy on recruitment of qualified staff where appropriate professional qualification is not readily accessible.
- Application and monitoring of the Council's Corporate Equalities Plan in relation to employment and workforce matters.
- The reaching of compromise agreements with employees on matters of dispute relating to their employment in consultation with the Head of Legal and Democratic Services and in consultation with the Head of Finance on the amount of the settlement.
- Recovery of all sums due to the Council at the end of employment with exception of those subject to credit agreement.
- Agreement to changes to establishment posts provided all changes can be contained within existing budgets.
- Dismissal of staff below Chief Officer in accordance with the Council's procedures.

### **Head of Legal and Democratic Services**

**The Council has designated this post Monitoring Officer under the Local Government and Housing Act 1989. Responsible for ensuring the Council acts lawfully. Responsible for the Council's Code of Conduct and advising the Council's Standards Committee on any potential breaches. There is more detail on the responsibilities of the Monitoring**

## **Officer in the introduction to this constitution and in the Financial Regulations.**

- Institution and defence of any legal proceedings in the name of the Council including all steps necessary to pursue or defend such legal proceedings.
- The instruction of Counsel or other external legal advisers within budget.
- Setting and reviewing charges for the supply of Council held information under the Freedom of Information Act 2000.
- The signing of certificates under the Local Government (Contracts) Act 1997.
- The setting of fees for the supply of background papers pursuant to the Local Government (Access to Information) Act 1985 as an exemption to the standard fee prescribed from time to time.
- Setting of procedures for compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- In consultation with the Head of Development Control and Major Developments to determine whether the charge for payment of all or part of the Council's legal costs for the preparation of section 106 agreements should be waived.
- Making of Orders granting Parish Meetings specific Parish Council powers.
- Making of temporary appointments to Parish Councils.
- Determination of ad hoc and permanent amendment to the list of "approved duties" as set out in the Members' Allowances Scheme.
- Making of Orders under Section 39(4) of the Representation of the People Act 1983 removing difficulties arising in respect of the election of Parish Councillors or the holding of a first meeting after an ordinary election, or where a Parish Council is not properly constituted.
- Administration of Local Land Charges function.
- To authorise attendance by a Member at a national conference or seminar.
- After a sub committee hearing to accept or reject any proposals from the applicant in consultation with The Chairman of the relevant subcommittee.

- Where there is any confusion or doubt to determine which committee a matter shall be considered by.
- Authorising amendments to the constitution where required by statutory changes or administrative error.

### **Head of Planning and Affordable Housing Policy**

- Submission of representations to the Highway Authority on traffic management proposals affecting the district.
- Approval of Conservation Area Appraisals and associated management plans in consultation with the Portfolio Holder.
- Provision of revisions to the Local List of Buildings of Architectural or Historic Interest and public consultation on such revisions subject to consultation with the Portfolio Holder.
- Making any nonsubstantive updates and corrections necessary to facilitate final publication of any policy documents following Executive approval.

### **Head of Recreation and Health**

- To authorise free use, or use on special terms, of any directly managed Council leisure facility and negotiate with the Council's contractor for free use or on special terms of leisure facilities managed for the Council subject to any compensation payable to the Council's contractor or any financial implications being contained within existing budgets.
- The use of recreation and sports facilities directly managed by the Council for special functions.
- Setting dates and hours of opening of directly managed recreation facilities and agreeing dates and hours within the terms of the contract with the Council's contractor.
- The letting of rooms and meeting halls in directly managed leisure facilities.
- The management of concerts, entertainments, promotions, activities and events organised and facilitated by Recreation and Health.
- Management of all Council leisure facilities and those managed under contract in accordance with agreed Council policy.
- To prepare and submit bids for National Lottery awards and other awards that may be available.
- The management of all Council community facilities.

- Providing the calculations and justification for the amount required for future maintenance of recreational spaces and facilities under planning agreements subject to consultation with the Head of Finance and the Head of Development Control and Major Development.
- The determination of applications for grants to parish councils subject to consultation with the Head of Urban and Rural Services.

### **Head of Safer Communities and Community Development**

- The administration of the Council's Concessionary Fare and Travel Token Scheme.
- Implementation of powers under the Crime and Disorder Act 1998 (including applications for Anti Social Behaviour Orders in consultation with the Head of Legal and Democratic Services who must be satisfied as to the evidence).
- Taking action under the Shops Act 1950, the Health and Safety at Work etc Act 1974, the Public Health (Control of Diseases) Act 1984, the Food Safety Act 1990, the Environmental Protection Act 1990, the Anti Social Behaviour Act 2003, the Food Hygiene (England) Regulations 2006 and Official Feed and Food Controls (England) Regulations 2007, and any subsequent relevant legislation falling within the service area, where necessary in consultation with the Head of Legal and Democratic Services.
- Issuing of certificates that any measures required by statutory notice to remove any danger to public health have been carried out satisfactorily.
- The making of grants in accordance with the policy agreed by the Executive in consultation with the portfolio holder and where the grant is for a parish council the determination shall be in consultation with the Head of Urban and Rural Services.
- Service of abatement notices.
- The approval of chimney heights, flues, furnaces etc under the Clean Air Acts.
- Setting of fees for the supply of information under the Environment and Safety Information Act 1988.
- Service of notices under section 165 of the Highways Act 1980 to remove a danger to users of the highway.
- Service of notices under sections 80 and 85 of the Water Industry Act 1991.



- Giving of prior consent under the Control of Pollution Act 1974 for construction sites and taking action under section 60.
- Service of Notices under section 80 of the Environmental Protection Act 1990 to secure the abatement of a noise nuisance.
- Granting of authority to Inspectors appointed under the Health and Safety at Work Act 1974 to authorise other persons to accompany them on inspections.
- All functions relating to Health and Safety under any relevant statutory provision within the meaning of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
- Agreeing and adopting the Council's Food Safety Enforcement Policy in consultation with the portfolio holder.
- Statutory notices on insufficient or defective toilet accommodation.
- All functions under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges).
- Enforcement of smokefree legislation under the Health Act 2006 and the Smokefree (Premises and Enforcement) Regulations 2006 and 2007.
- Burial grants to assist with cost of burials where there are no relatives who will fund the cost.
- All matters in relation to the Motor Salvage Operators' Regulations 2002 (dealing with powers to regulate the motor salvage industry).
- All matters relating to caravan sites (other than planning matters).
- Issuing licences/registrations/certificates/approvals or taking any other necessary action under the following statutes and any subsequent amendments or updating of these statutes:
  1. Animal Boarding Establishments Act 1963
  2. Breeding of Dogs Act 1973
  3. Caravan Sites and Control of Development Act 1960
  4. Dangerous Wild Animals Act 1976
  5. Local Government (Miscellaneous) Provisions Act 1982 (covers skin piercing activities)
  6. Local Government Act 2003 (covers cosmetic body piercing)

7. Pet Animals Act 1951
8. Riding Establishments Act 1964 and 1970
9. Scrap Metal Dealers Act 1964
10. Zoo Licensing Act 1981
11. Motor salvage operators

### **Head of Urban and Rural Services**

- The use of parks, open spaces and recreational areas for special functions.
- The planting and maintenance of trees on Council-owned land or Council-controlled land.
- The provision of advice relating to trees and recommending to the Head of Development Control and Major Developments the making of Tree Preservation Orders including in an emergency.
- Dealing with applications for works to trees in Conservation Areas.
- Approving the standards for adoption of open space land in planning agreements.
- Authorising the temporary use of off street parking areas for uses other than parking.
- Authorising the siting of market stall spaces and the letting of such spaces subject to the necessary planning and highway consents.
- Managing the maintenance of monuments and public clocks in the Council's ownership.
- The issuing of parking permits and season tickets for off street parking and for residents parking schemes and Exemption Certificates for pedestrianised areas.
- The provision of street furniture on land other than recreational land.
- The making of temporary traffic orders under section 21 of the Town Police Clauses Act 1847 relating to special events on the highway and the power to waive charges for the making of such orders in exceptional circumstances.
- The enforcement of parking and other stationary traffic offences.

- The licensing of hackney carriages and drivers and private hire cars, proprietors and drivers subject to applicant's right of appeal to a subcommittee of the Licensing Committee.
- Granting, variation, review or refusal of all licences, certificates or permissions under the Gambling Act 2005 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.
- Determining whether a complaint or representation under the Gambling Act 2005 is irrelevant, frivolous or vexatious.
- Street and house to house collections.
- Street trading, under section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- Granting of approval to third parties to place objects over or on the public highway, under section 115 of the Highways Act 1980.
- Granting, variation, review or refusal of all licences, certificates or permissions under the Licensing Act 2003 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.
- Determining whether a complaint or representation under the Licensing Act 2003 is irrelevant, frivolous or vexatious.
- Approval of applications for the making of Public Path Orders (which are not the result of the consideration of a planning application) and to approve the confirmation of Orders where no objections are lodged, or, if lodged, are withdrawn within the statutory period.

## **Meeting Procedure Rules**

### **Meetings – Dates and Times**

Meetings of Council, Committees or Sub-Committee shall be held each year on such dates and times as decided by the Council.

No alterations to the dates or time of meetings shall take place unless Council, the Committee or Sub-Committee agrees an ad hoc change or the Chairman of the relevant committee or sub-committee after consultation with the Head of Legal and Democratic Services concurs with either a cancellation, or an alternative date or time.

The Council will give at least five clear days notice of any meeting to members of that meeting and to the public by posting details of the meeting at the Council's main offices, except where a meeting is called at shorter notice.

### **Appointment of Special Committees and Sub-Committees**

Council and Committees may from time to time appoint Committees and Sub-Committees respectively. They may appoint any of their Members to such Committees and Sub-Committees subject to any statutory provision and may co-opt where that is authorised by statute. Such Committees/Sub-Committees shall report to the appointing body but shall not have power to transact any business without express authority from the appointing body or by virtue of this constitution.

Where Special Committees are formed, the Council will decide whether to appoint Substitute members to the Committee at the time it makes the appointments.

### **Membership**

The membership and substitute members of Council Committees shall be agreed at Annual Council.

If a casual vacancy arises on a Committee, the Head of Legal and Democratic Services shall notify the relevant Political Group which is responsible for the appointment to the seat which has been vacated. The nomination by the Political Group shall be considered at the next ordinary meeting of Council, with any change in the appointment of Substitute members to the Committee.

### **Quorum**

No business shall be transacted at any meeting of the Council, committees and of Sub-Committees unless one third of the whole number of members of Council, Committee or Sub-Committee is present.

In the case of committees this shall not be less than three members or in the case of a of a Sub-Committee two members. The quorum for the Standards Committee and Licensing Sub-Committee shall be in accordance with Standards Committee Procedure Rules and Licensing Sub-Committee Procedure Rules respectively.

If at the time set for the start of a meeting there is not a quorum, the meeting shall not commence until a quorum is present, but if after fifteen minutes there is no quorum the meeting shall be abandoned and a new meeting date shall be arranged.

If during any meeting a quorum is not present the Chairman shall adjourn the meeting for fifteen minutes. If, after fifteen minutes there is still no quorum the meeting shall stand adjourned to a date and time announced by him at the time the meeting is adjourned or shall be included on the agenda for the next ordinary meeting.

### **Chairman**

Every Council meeting shall at its first meeting elect a Chairman and Vice-Chairman for the year.

In the case of the Executive, the Leader of the Council (Chairman of the Executive) is appointed by Council and the Deputy Leader of Council (Vice-Chairman of the Executive) is appointed by the Leader of the Council.

If at any meeting the Chairman is absent, the Vice-Chairman shall preside. If both the Chairman and Vice-Chairman are absent another Member at the meeting shall preside.

Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

In the event of a Chairman resigning or intending to resign notice of resignation shall be given at a meeting of the Committee and an election to fill the vacancy made at the first meeting after that.

### **Attendance at Committees and Sub-Committees by those who are not Members**

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

A Member of the Council may attend any meeting of the Council of which they are not a member:

- as an observer, without a right to vote or speak, or
- to make a statement (and answer any resulting questions) on an issue on the agenda that directly affects their ward. At the discretion of the

Chairman of the meeting they may also be allowed to participate in any debate. At Planning Committee, they may also sum up their view at the end of the debate.

Such attendance shall not be allowed if the matter is one where the Member would be required to declare a prejudicial interest. In such a case the Member may ask another Member to attend or address the meeting on their behalf.

### **Substitutes**

The Terms of Reference for each Committee and Sub-Committee will state whether Substitute members may be appointed and what eligibility restrictions if any shall apply. Substitute members will either be named or casual:

- **Casual Substitutes** are any eligible member of the relevant political group.
- **Named Substitutes** must be members of the relevant political group and be appointed by Council.

If a member of a Committee or Sub-Committee is unable to attend a meeting or there is a vacant seat, a duly appointed Substitute from the appropriate political group shall be entitled to attend, speak and vote at the meeting. This substitution shall apply for the whole duration of the meeting.

No Member shall be entitled to act as a Substitute for more than one member at any one meeting;

The name of the Substitute must be notified to the Head of Legal and Democratic Services before the start of the meeting, and shall be reported to the meeting and recorded in the Minutes

### **Attendance at Committees and Sub-Committees of the Leader of the Council and Leaders of Political groups who are not Members**

In addition to their rights as elected member under this constitution, the Leader of the Council and Leaders of Political Groups, shall be entitled to attend and speak at Committees and Sub-Committees with the exception of the Licensing, Planning and Standards Committee. The Leader of the Council and Leaders of Political Groups may arrange for another Member to represent them at any such meeting they are entitled to attend, such attendance shall be notified to the Head of Legal and Democratic Services prior to the commencement of the meeting and shall be recorded in the Minutes of the meeting.

### **Exclusion of the Press and Public to Meetings**

### **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.

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.

**Exempt information – discretion to exclude public**

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

Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Exempt information means information falling within the categories in the following table. Each of these categories has a paragraph number specified in the table, and are subject to the qualifications and interpretation which follow the table.

Paragraph Number	Category
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 or 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.

<b>Standards Committee</b>	
Paragraphs 7A-7C apply where a meeting of a standards committee or a sub-committee of a standards committee is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2000.	
7A	Information which is subject to any obligation of confidentiality.
7B	Information which relates in any way to matters concerning national security.
7C	The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

### **Public Interest Test**

Information which falls within any of paragraphs 1 to 7 above; and is not prevented from being exempt by virtue of the following two qualifications is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Qualifications**

#### **General**

Information is not exempt information 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 Country Planning General Regulations 1992.

#### **Paragraph 3**

Information falling within paragraph 3 above is not exempt information if it is required to be registered under:-

- the Companies Act 1985;
- the Friendly Societies Act 1974;



- the Friendly Societies Act 1992;
- the Industrial and Provident Societies Acts 1965 to 1978;
- the Building Societies Act 1986; or
- the Charities Act 1993.

### **Interpretation**

*“employee”* means a person employed under a contract of service.

*“financial or business affairs”* includes contemplated, as well as past or current, activities.

*“labour relations matter”* means any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 [10] (matters which may be the subject of trade dispute, within the meaning of that Act); or any dispute about a matter falling within paragraph (a) above. For the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.

*“office holder”*, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.

*“registered”* in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of the Act).

### **Exclusion of Access by the Public To Reports**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, 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.

### **Agendas**

#### **Ordinary Meetings**

In the absence of a specific agenda set out in the relevant Committee Procedure Rules, the agenda for meetings shall be to:-

- elect a person to preside if the chairman and vice-chairman are not present;

- receive any apologies for absence;
- receive any announcements from the Chairman and/or the Leader;
- receive any declarations of interest from members;
- approve the minutes of the last meeting;
- consider any urgent items of business as agreed by Chairman
- deal with any business remaining from the last meeting;
- to report any petitions and requests to address the meeting on an item on the agenda, or to receive an address, any other business on the agenda (not applicable to Licensing, Planning and Standards Committees)
- pass a resolution to exclude the public for any items involving the likely disclosure of exempt or confidential information
- any other exempt business on the agenda

The Chairman, or the meeting by resolution, may vary the order of business.

### **Special or Extraordinary Meetings**

The order of business at a special or extraordinary meeting shall be:-

- (a) To elect a person to chair the meeting if the Chairman and Vice-Chairman are absent.
- (b) To receive apologies for absence.
- (c) Where a special or extraordinary meeting has been called details of the business of the meeting and of any motion or report which it is intended the meeting should consider shall be set out in the summons,

Those listed below may require the Chief Executive to call a special or extraordinary meeting of the Council:-

- the Council by resolution;
- the Chairman of the Council;
- the Monitoring Officer; and
- any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to call a meeting or has failed to call a meeting within seven days.

Those listed below may require the Chief Executive to call a special or extraordinary meeting of a Committee or Sub-Committee:

The Chairman of a Committee or of a Sub-Committee

- A quorum of the Committee or Sub-Committee if they have signed a requisition.

### **Urgent Business**

No business shall be transacted at a meeting other than that specified in the agenda

Where an urgent matter within the terms of reference of that meeting is notified to the Head of Legal and Democratic Services by 12 noon on the day of the meeting, they will inform the Chairman who will decide whether the matter should be considered at the meeting as a matter of urgency

### **Agendas, Minutes and Reports**

Any member of a meeting may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting for consideration, subject to any exclusions as set out in the procedure rules.

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, except where a meeting is called at shorter notice. If an item is added to the agenda later, the Chief Executive will make each such report available to the public as soon as the report is completed and sent to Councillors.

All agendas, minutes, reports and other documents of the Council, Committees and Sub-Committees shall be available on request to all Members of Council and to any other person on payment of a charge for postage and any other costs for at least six years following the date of the meeting. The Chief Executive may supply to the public any other documents supplied to Councillors in connection with an item

They shall be treated as confidential in so far as they may relate to meetings or parts of meetings which are not open to the public, unless and until such a time as they may become public in the ordinary course of the Council's business.

After any meeting of the Council or of its committees, the Chief Executive 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 minutes).

The minutes of every meeting shall be sent to each Member of the meeting before the next meeting and shall be taken as read. No discussion shall take

place upon the minutes except upon their accuracy, and any question of their accuracy shall be considered and voted upon.

Minutes of meetings shall be signed at the next ordinary meeting. Members may ask questions on Minutes relating to their accuracy, or request an update on the matter referred to. Members cannot use this facility as a means to re-open debate on an issue or to alter a previous decision.

### **Background papers**

The Officer producing a report will set out in that report a list of background papers relating to the subject matter of the report which in his opinion, have been relied on to a material extent in preparing the report.

Background papers do not include published works or in respect of executive reports, the advice of a political advisor.

Background papers which disclose exempt or confidential information, will be marked as such and will not be publicly available.

The Council will make background papers available for inspection for four years after the date of the meeting.

### **Petitions**

Petitions may be presented to all meetings of Council except Planning, Licensing and Standards Committees by:

- A Local Government elector for the area,
- A person who is wholly or mainly resident in the area,
- A Council Taxpayer or National Non-Domestic Ratepayer for the area

Petitions must:

- Be relevant to the Terms of Reference to the meeting to which they are presented
- Be relevant to a function of the Council and
- Directly affect the District, or a part of it

A request to present a petition must be received by the Head of Legal and Democratic Services before noon on the third working day before the meeting.

Any question as to the relevance of any petition shall be determined by the Chairman of the meeting without debate.

When petitions are presented the presenter shall have the right to briefly announce the subject of the petition (5 minutes);

If the petition is directly relevant to an item before the meeting or that is due to come before the meeting it shall be considered in conjunction with that item;

If the petition is not relevant to an item before the meeting or that is due to come before the meeting it shall be referred without debate for consideration to a relevant council meeting or officer, who shall respond to the petition and report back to the referring body.

In the case of referral to a council meeting the person who presented the petition shall be able to address the meeting when the matter referred to in the petition is considered.

### **Addresses**

Addresses may be presented to all meetings of Council except Planning, Licensing and Standards Committees by:

- A Local Government elector for the area,
- A person who is wholly or mainly resident in the area,
- A Council Taxpayer or National Non-Domestic Ratepayer for the area

Addresses must be on an item on the Agenda before the meeting and not exceed 5 minutes. No person will be allowed to address more than one meeting on any particular issue, except in the case where a Planning decision has been referred to Council for consideration.

Requests to address and the reasons for the address must be received by the Head of Legal and Democratic Services not later than noon on the working day before the meeting;

The Chairman of the meeting shall determine the request, and where on the agenda the address shall be made. The Chairman may require that where there are a number of persons wishing to present similar views on the same issue, that an address is made by a single spokesperson, on behalf of all such persons. The Head of Legal and Democratic Services will notify persons who are not allowed to address a meeting of that fact and of the reasons for the decision.

Addresses shall not be permitted on the following matters:

- planning applications or any other planning, licensing or standards committee matter involving an individual or applicant for any permission;

- any matter involving negotiations which the Council is engaged in;
- any matter where the Council is involved in negotiation or litigation;
- any matter involving exempt or confidential information as set out in the introduction to this constitution
- any other matter which the Chairman considers is inappropriate following consultation with the Head of Legal and Democratic Services.

## **Motions**

Motions may be submitted by members of a council meeting on any issue over which the meeting has power or which affects the District and shall be in writing signed by the Member giving the notice.

Motions must be received in writing by the Head of Legal and Democratic Services by noon on the eighth working day before the meeting.

Received motions shall be open to the inspection of Members of the Council during Council office opening hours and shall be specified on the agenda for the meeting for which it has been submitted.

If a submitted motion is not proposed either by the Member who has given the notice or by some other Member with his written authority it shall be abandoned and must be submitted afresh.

If a motion is referred to the Executive or any Committee or Sub-Committee of which the proposer is not a Member, he shall be given notice of the meeting at which it is proposed to consider the motion and shall have an opportunity of explaining it, but shall not have a right to vote on it.

## **Motions with Budgetary consequences**

Any motion on notice or amendment which would require an increase in the current budget of the Council, or would involve capital expenditure, shall, when formally proposed and seconded, be immediately adjourned.

The motion will be considered at the next ordinary meeting of the Council in order that the Executive, relevant Committee and/or statutory officers may report on the potential impact and consequences. At that meeting the motion shall be considered as written in the Notice of Motion and shall not be subject to amendment.

An urgent motion which cannot wait till the next ordinary meeting of the Council, may, be debated at the meeting of the Council at which it is proposed. The Chairman of the Council will decide whether the item is of an urgent nature after consulting with the Chief Executive and Leader of the Council.

## **Procedural Motions**

The following motions may be moved without notice:-

- The appointment of a Chairman in the absence of the Chairman and Vice-Chairman.
- A motion relating to the accuracy of the Minutes of the meeting
- The referral of an issue to the Executive, a Committee or Sub-Committee
- The appointment of a Committee, a representative of the Council on any body or at any meeting, in relation to any agenda item or on the recommendation of any Committee.
- Adoption of recommendations of the Executive, Committees and any consequent resolutions.
- That the meeting move straight to the vote.
- That the debate be adjourned.
- That the meeting be adjourned.
- That a Procedure Rule or Rules be suspended
- That. a Procedure Rule or Rules be reinstated
- That the press and public be excluded
- That the press and public be re-admitted.
- That a Member be not further heard, or be required to leave the meeting.
- That the order of the agenda items be varied.
- That a motion be withdrawn.
- A motion which is deemed urgent by Chairman under Section 100B(4) of the Local Government Act 1972 be considered.

## **Rescission of Resolution**

No motions to rescind or vary an agreed decision or a motion which has been voted on and lost within the preceding six months shall be allowed, except in the following circumstance:

A motion to rescind or vary an agreed decision or or a motion which has been voted on and lost within the preceding six months shall be allowed, if it has the signature or e-mail from a known or recognised source of 8 councillors and is received by Head of Legal and Democratic Services by noon on the eighth working day before the meeting.

When such a motion has been considered, it shall not be open to any Member to propose a similar motion for a further period of six months.

The above provision shall not apply to motions which are moved following consideration by the Executive or a Committee, nor shall it prevent the Executive or a Committee or Sub-Committee varying or rescinding a decision which has been taken under delegated authority within the preceding six months.

### **Postponing a Decision to Rescind or vary a Resolution**

When a Council meeting has passed a motion to vary or rescind a resolution, it may be postponed by a notice signed or by e-mail from a known or recognised source by 8 Members of the Council, which shall be received by the Head of Legal and Democratic Services by noon on the day following the meeting at which the resolution to rescind or vary the decision was passed.

Upon receipt of such a notice the decision referred to and to be subject to variation or rescission shall be suspended and the issue referred to Council for resolution.

### **Presentations and Presentation of Reports to Council Meetings**

A Council meeting (with the exception of meetings of The Council where the suspension of the Meeting Procedure Rules shall be required), may prior to entering debate on any issue receive a report presented by an officer or presentation from an officer or other invited stakeholder. Members may then ask questions of the presenter through the Chairman.

### **Rules of Debate**

At Council every Member shall be seated except the one who is addressing the Council, and when the Chairman rises no one else shall continue standing, or rise from his seat.

At Committees and Sub-Committees all members shall be seated and only one member at a time as directed by Chairman shall speak, and when the Chairman wishes to speak no one else shall continue speaking.



### **Proposer Speech**

The proposer of a motion or amendment shall first state the precise wording or effect of the motion or amendment which shall not be further explained or discussed unless it has been formally seconded.

Every motion or amendment shall, if required by the Chairman, be reduced to writing, handed to the Chairman and read before it is moved.

### **Secunder Speech**

Every motion shall be formally seconded before it is discussed or put to the meeting. The seconder of a motion may reserve his speech for a later period in the debate.

### **Speeches by Others and Amendments**

A Member who speaks shall address the Chairman and direct his speech strictly to the motion or amendment under discussion or to a point of order relating to procedure. A Member shall not speak more than once on any motion or amendment.

No Member shall propose or second more than one amendment on any one motion. The seconder of an amendment may reserve his speech for a later period in the debate on the amendment.

An amendment must be relevant to the motion on which it is moved and may only:-

- leave out words.
- leave out words and insert or add others.
- insert or add words.
- refer any motion, issue, or part of an issue, to an appropriate body, meeting or individual for consideration or reconsideration. No further amendment may be moved, if this amendment is agreed

An amendment may not amount to a direct negative of the motion or nullify the motion.

If an amendment is rejected, other amendments may be moved on the original motion.

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

A further amendment shall not be moved until the Council has disposed of any amendment previously moved.

### **Leader of the Council/ Relevant Committee Chairman Right of Reply**

The Leader of the Council (in respect of motions concerning Executive functions) or relevant Committee Chairman (in respect of motions concerning non-executive functions) shall be entitled to a right of reply.

### **Proposer Rights of Reply**

In a debate upon a motion the proposer of the original motion may reply at the close of the debate upon the motion and shall strictly confine himself to answering the previous speakers and shall not introduce any new matter.

In a debate upon an amendment the proposer of the amendment and the proposer of the original motion may both reply at the close of the debate upon the amendment, the proposer of the amendment shall reply first before the proposer of the original motion. Both shall, in replying, confine themselves to answering previous speakers and shall not introduce any new matter.

In all cases a decision shall be taken without further discussion after the reply of a proposer of a motion.

### **Withdrawal of Motion**

A Member may withdraw a motion which he has moved, with the consent of both the meeting and the Secunder. The consent of the meeting will be signified without discussion. No Member may speak on the motion after the proposer has requested permission to withdraw it unless permission is refused.

### **Procedural Motions**

A Member who has not spoken on the question before the meeting may, with the consent of the Chairman, propose without comment, any one of the following procedural motions:-

- that the meeting move straight to the vote.
- that the debate be adjourned
- that the meeting be adjourned
- that the meeting proceed to next business

on the seconding of which the Chairman shall immediately put the procedural motion to the vote.

If a procedural motion that the meeting move straight to the vote is carried the Chairman shall first call upon the proposer of the amendment, and then on the proposer of the original motion under discussion to reply, and shall then put the motion under discussion to the vote.

If the procedural motion that the debate be adjourned or that the meeting be adjourned is carried, the motion under discussion shall be adjourned to the next meeting, or the meeting shall stand adjourned as the case may be, without the proposer of the motion, or the proposer of the amendment if any being called upon to reply.

If the procedural motion to proceed to next business is carried the Chairman shall call upon the proposer of the amendment, and then on the proposer of the motion under discussion to reply, and shall then put the motion under discussion to the vote.

### **Chairman’s Decision**

The decision of the Chairman on any matter upon which it is necessary for him to rule in respect to the rules of debate or any other matter relating to the conduct of meetings shall be final and shall not be open to discussion.

### **Limitations on Speaking**

Motion of which Notice has been given	(1) Proposer	10 minutes
	(2) Secunder (Right to Reserve)	5 minutes
	(3) Others	5 minutes
	(4) Leader of the Council in respect of motions concerning Executive functions, or the Chairman of the relevant Committee in respect of motions concerning non-executive functions.	5 minutes
	(5) Proposer	5 minutes
Amendment to a motion	(1) Proposer of Amendment	10 minutes
	(2) Secunder (Right to Reserve)	5 minutes
	(3) Others	5 minutes
	(4) Proposer of Amendment	5 minutes
	(5) Proposer of Original Motion	5 minutes

## **Voting**

Every matter will be decided by a simple majority, except in the case of voting on appointments. Every question shall be determined by a show of hands of those Members present and voting. Members must be seated in their places in the meeting room when voting. Individual Members shall have the right to have their votes for or against a motion, or the fact that they have abstained from voting recorded in the Minutes of the meeting at which the vote is taken, provided they request that this be done after the vote is taken.

## **Recorded Vote**

If, before the vote is taken, two Members demand a recorded vote the names for and against the motion or amendment and the names of Members abstaining shall be taken down in writing and entered in the Minutes

## **Voting on Appointments**

Where there is a vote on the appointment of representatives, nominees or delegates of the Council, a separate vote shall be taken on each appointment.

Where there are more than two persons nominated for any position to be filled by the Council and of the votes given there is not an overall majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken and so on until a majority of votes is given in favour of one person.

## **Suspension and Amendment of Rules**

Any Meeting Procedure Rules may, by a simple majority be suspended at any meeting with regard to any item of business to be transacted. The duration of the suspension shall be clearly stated.

## **Prevention of Disorderly Conduct**

### **Members**

At a meeting of the Council if any Member persistently:

- disregards the ruling of the Chairman and/or
- behaves irregularly, improperly or offensively and/or
- wilfully obstructs the business of the meeting,

The Chairman may adjourn the meeting for such a period as is considered appropriate to resolve the issue, alternatively,

The Chairman of the Council or any other Member at the discretion of the Chairman may propose that the Member named be not further heard. Upon being seconded it shall be immediately put to the meeting and decided without discussion. If it is carried the Member named shall not speak further at the meeting.

If the named Member continues to display disorderly conduct after the motion as set out above has been agreed, the Chairman may either:

propose that the Member named leave the meeting, it shall not require seconding and shall immediately be put to the meeting and decided without discussion.

If it is carried the Member named shall immediately leave the meeting.

### **Members of the Public**

If a Member of the public interrupts the proceedings at any meeting the Chairman shall warn him. If he continues the interruption, the Chairman shall request him to leave the Meeting Room. If he does not leave, the Chairman shall either adjourn the meeting or order his removal from the meeting room.

In case of general disturbance in any part of the meeting room open to the public, the Chairman shall order that part to be cleared.

### **General Disturbance**

In the event of a general disturbance which in the opinion of the Chairman renders the due and orderly dispatch of business impossible, the Chairman may adjourn or suspend the meeting of the Council until the disturbance is brought under control, or for such period of time as he shall deem appropriate and the meeting shall thereupon be adjourned or suspended accordingly.

### **Interpretation**

In these Procedure Rules the words meeting, Committee and Sub-Committee mean meetings formally constituted under the Local Government Act 1972 as amended.

## **Council Procedure Rules**

The following Procedure Rules shall apply to meetings of full Council.

### **Agenda for Ordinary Meetings of Council**

The agenda for ordinary meetings shall be to:-

- elect a person to preside if the chairman and vice-chairman are not present;
- receive any apologies for absence;
- receive any announcements from the Chairman of the Council and/or the Leader;
- receive any declarations of interest from members;
- approve the minutes of the last meeting;
- receive questions from members on any matters arising from the minutes;
- deal with any business remaining from the last meeting;
- to report any petitions and requests to address the Council on an item on the agenda, or to receive an address, from an organisation, which is of importance to the District;
- consider and resolve any issues called in to the Council in accordance with the constitution;
- receive minutes and reports from the Executive and receive questions and answers on any of those minutes or reports
- receive a report from the Leader of the Council containing details of executive decisions taken since the last meeting which were cases of special urgency;
- receive a record of decisions made by Executive Portfolio Holders, and receive questions and answers on that record,
- receive minutes and reports from the Council's Committees and receive questions and answers on those minutes or reports
- receive written questions and answers submitted by Members
- consider motions of which notice has been given in the order in which they have been received,
- consider any other business or motions which the Chairman has decided are urgent and which are not included in the agenda;

- any other business on the agenda
- If necessary to pass a resolution to exclude the public for any items involving the likely disclosure of exempt or confidential information
- to receive any Minutes and reports from the Executive and Committees as appropriate containing exempt or confidential information and receive questions and answers on any of those minutes and reports
- any other exempt or confidential business on the agenda

### **Annual Council Meeting**

The annual meeting will take place within 21 days of the retirement of the outgoing councillors, on a date to be decided by the Council as part of its overall programme of meetings.

- Agenda for Annual Council Meeting will be to:-
- elect the Chairman of Council;
- elect the Vice-Chairman of Council;
- receive apologies for absence;
- receive any announcements from the Chairman;
- approve the Minutes of the last meeting;
- conduct any business concerning the establishment of and appointments to:
  - the Executive, including the appointment of Leader of the Council;
  - the Overview and Scrutiny Committees;
  - the Standards Committee;
  - such other Committees as the Council consider appropriate.
- agree the Responsibility of Functions or such part of it as the Constitution determines it is for the Council to agree for the municipal year, including the allocation of functions to portfolio holders;
- receive a report on the attendance during the previous year of Members at meetings of the Committees and Sub-Committees;
- consider any other business set out in the agenda for the meeting.

## **Appointment of Committees**

The Council shall at the Annual Meeting

- decide which Committees to establish for the municipal year
- decide the number of members to serve on each Committee
- decide allocation of seats to Political Groups
- decide which Committees the Substitute Member scheme will or will not apply to
- except where the appointment to Committees is exercisable only by the Executive, appoint members to Committees in accordance with the wishes of Political Groups subject to statutory requirements
- appoint, as appropriate any Substitute members to Committees

The Council:-

- Appointments to Committees shall hold office no later than the next Annual Council Meeting
- may at any time dissolve or alter the membership of a Committee;
- may at any time modify or revoke the powers or duties of any Committee.
- shall ensure that every Member serves on at least one Committee unless any Member shall signify his wish to forego such right.
- may, at any time, decide that Members of a particular Committee or Sub-Committee may not serve as Members or Substitutes of another specified Committee or Sub-Committee, in view of the conflict of interest which would arise from serving on both Committees or Sub-Committees.

## **Consideration of Minutes by Council**

The Minutes of the Executive and Committees shall be submitted to the Council at the first opportunity distinguishing between resolutions and any recommendations that require the approval of Council.

On submission of the minutes to Council, the Chairman of the meeting, or in their absence any other Member of the meeting may propose the adoption of the minutes and questions may be asked before the page of the Minutes under consideration has been passed. Questions shall be clearly stated and will be answered without discussion. The Member putting the question may ask a supplementary question providing it is relevant to the reply and does not introduce any new matter.

The Member to which a question has been addressed will reply to such question or may undertake to reply in writing.



Where the reply to any question cannot conveniently be given orally it shall suffice if a written reply is given to the Member within 7 working days.

Recommendations requiring the approval of the Council shall be presented, proposed and seconded. Questions may be asked, statements made, and amendments moved.

The Leader of the Council or Chairman of a Committee may respond or shall have discretion to ask any individual Executive Portfolio Holder or the Chairman of any Sub-Committee to speak on, or in explanation of, the recommendations of the Executive or a Committee. Responses shall be limited to 10 minutes.

Where any recommendation of a meeting conflicts with a motion which has been placed on the agenda for debate, the matter shall be considered by the Council in connection with the Minutes of meetings.

Where a Minute has been put to the Council and agreed it shall be deemed to have been adopted.

### **Limitations on speaking**

Amendment of a motion to adopt Minutes of the Executive or Committee	(1) Proposer	10 minutes
	(2) Secunder (Right to Reserve)	5 minutes
	(3) Others	5 minutes
	(4) Leader of the Council or Committee Chairman	10 minutes
	(5) Proposer	5 minutes

### **Record of Executive Portfolio Holder Decisions**

The record of decisions made by Executive Portfolio Holders shall be considered after the Minutes of the Executive and questions may be asked by Members. A Member who has received a written reply to a question may ask a supplementary question provided it is relevant to the reply and does not introduce any new matter. The Member to which the question was addressed may reply to such supplementary question or may undertake to reply in writing.

### **Written Questions**

A Member may ask the Leader of the Council, Executive Portfolio Holder, or Committee Chairman any question or make a statement relating to the business of the meeting or portfolio for which they are responsible

Questions and statements must be received by the Head of Legal and Democratic Services before noon on the fourth working day before the meeting.

The Head of Legal and Democratic Services shall arrange for received questions and statements and a response printed and circulated at the commencement of the meeting.

A Member who has received a written reply to a question may ask a supplementary question provided it is relevant to the reply and does not introduce any new matter. The Member to which the question was addressed may reply to such supplementary question or may undertake to reply in writing.

### **Determination of Planning Applications**

A Planning application may be referred to full Council for determination where a notice signed or by e-mail from a known or recognised source by one third or more of members has been received by the Head of Legal and Democratic Services.

A Planning application may only be referred to full Council on the ground that it is of such special significance to the District that it ought to be determined by the full Council and if it has already been considered by the Planning Committee or an officer under their delegated authority.

The Chief Executive shall place the item on the agenda for the next ordinary meeting of Council. If there is no convenient ordinary meeting at which the application could be considered, the Chief Executive in consultation with the Chairman of the Council shall call an Extraordinary meeting of the Council at which the application will be considered.

Council shall consider a report prepared by the appropriate Officer and circulated to all Members with the agenda. Officers shall be able to address the meeting of the Council to present the report, answer any questions and to advise Members on the application of planning policy.

The Chairman of the Planning Committee (or in their absence the Vice-Chairman or other committee members) which would have otherwise determined the application shall propose a motion in respect of the referred matter for the Council to debate.

The motion proposed as above shall be duly seconded as required by the normal rules of debate. Amendments may be moved on the motion as regulated by the rules of debate, but it shall not be possible to propose or amend a motion so as to refer the planning application in question to any Committee or Sub-Committee.

At the conclusion of the debate upon the motion, the Chairman of Planning Committee or, in default, the Vice-Chairman of that Committee, shall reply and shall strictly confine himself to answering the previous speakers, and shall not introduce any new matter.

Where the Council, is minded to approve or refuse an application contrary to policy/recommendation, clear planning reasons for doing so shall be identified at the meeting by the proposer of the motion, to the satisfaction of the Chairman, before the vote is taken on whether to grant or refuse planning permission.

Any Member of the Council participating in the determination of a planning application by full Council, must receive such training as soon as possible and in any event within the limits as set out below.

A Member may participate in one Council meeting when planning matters are being considered prior to receiving formal training. Unless training has been undertaken in the manner devised by the Council for the time being as appropriate, the Member concerned will not be able to participate at full Council when planning issues are being considered.

## **Executive Procedure Rules**

The arrangements for the discharge of executive functions are set out in the Executive Terms of Reference.

## **The Forward Plan**

### **Contents of the Forward Plan**

The Forward Plan will contain matters which the Leader of the Council has reason to believe will require a key decision to be taken (as set out in the Executive Terms of Reference) during the period covered by the plan. Exempt information need not be included in a forward plan and confidential information cannot be included.

It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- the matter in respect of which a decision is to be made;
- the name and title of the individual making a decision, if any and where the decision taker is a body, its name and details of membership;
- the date or the period within which, the decision will be taken;
- the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- the means by which any such consultation is proposed to be undertaken;
- 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
- a list of the documents submitted to the decision taker for consideration in relation to the matter if any.

### **Period of the Forward Plan**

The Leader of the Council will produce monthly a Forward Plan to cover the next period of four months, beginning with the first day of the coming month. The Forward Plan must be published at least 14 days before the start of the period covered.

### **Publicising the Forward Plan**

The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- that key decisions are to be taken on behalf of the Council;
- that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- that the plan will contain details of the key decisions to be made for the four month period following its publication;
- that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- 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;
- 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;
- that other documents may be submitted to decision takers;
- the procedure for requesting details of documents (if any) as they become available; and
- 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.

### **Key Decisions not Included in the Forward Plan**

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, the decision may still be taken if:

- 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.
- the Chief Executive has informed the Chairman of the Overview and Scrutiny Committee, in their absence the Vice –Chairman or in their absence each member of that Committee in writing of the matter about which the decision is to be made and that a notice is made available to the public at the offices of the Council; and
- at least 5 clear days have elapsed since the Chief Executive provided the information as set out above.

### **Urgent Key Decisions not Included in the Forward Plan**

If by virtue of the date by which a decision must be taken the above provision 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 Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, in their absence the Vice –Chairman or if they are unable to act, then the agreement of the Chairman of the Council, or in his absence the Vice-Chairman will suffice.

Political Group Leaders will be notified as soon as reasonably practicable when this provision is utilised and the Leader of the Council will report the issue to the next available meeting of the Council. If the next meeting of the Council is within 7 days of receipt of the written notice 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.

### **Agendas for Executive Meetings**

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

- elect a person to preside if the chairman and vice-chairman are not present;
- receive any apologies for absence;
- receive any announcements from the Chairman and/or the Leader;
- receive any declarations of interest from members;
- approve the minutes of the last meeting;
- consider any urgent items of business as agreed by Chairman
- deal with any business remaining from the last meeting;
- to report any petitions and requests to address the meeting on an item on the agenda, or to receive an address,
- any other business on the agenda, including referrals from Council, Committees, Executive Portfolio Holders
- pass a resolution to exclude the public for any items involving the likely disclosure of exempt or confidential information
- any other exempt business on the agenda

The Chairman, or the meeting by resolution, may vary the order of business.

### **Rights to request or require an agenda item**

### **Members of Council**

Any member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive.

The agenda for the meeting will give the name of the Councillor who asked for the item to be considered and will be invited to attend the meeting, to be able to address the Executive.

If an item is requested for inclusion on the agenda by a member of the Council (including a member of the Executive), then it will be included with such information as is available at the time, but it shall only be considered and decided if it is possible to produce a full report containing relevant information to enable a decision to be properly made.

The Executive will be able to defer any matter added to its agenda in this way, to enable a proper report to be prepared, and if this is the case the matter will normally be considered at the next meeting.

If there are several such items on the Executive's agenda it may decide to defer consideration of any of them, as it sees fit.

### **Monitoring and Section 151 Officers**

The Chief Executive, Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of an Executive meeting. The Monitoring Officer and Section 151 Officer may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting.

If there is no meeting of the Executive 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.

### **Volume of Business**

If the volume of business for a meeting of the Executive is considered to be excessive, the Leader may defer consideration of items to a later meeting with the exception of:

- items referred to the Executive by the Council or an Overview and Scrutiny Committee, if the Council or Overview and Scrutiny Committee has requested they be dealt with at that meeting;
- reports of Statutory Officers may not be deferred unless the relevant Officer concurs;

Deferred items will be dealt with at the next ordinary Executive meeting or a Special Meeting convened for the purpose within 4 weeks.

### **Notice of Decisions made under Executive Arrangements**

A summary notice of decisions made under the Executive arrangements shall generally be published on the next working day (or in any event as soon as possible) after such meetings and shall be sent to all Members of the Council.

### **Minutes of Executive Meetings**

The minutes will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **Executive Portfolio Holder Decisions**

#### **Reports**

Executive Portfolio Holders will receive reports on issues where they are asked to make a non key decision. Such reports shall be sent to the Executive Portfolio Holder and published 5 days before any decision may be made. Reports shall be publicly available unless they contain exempt or confidential information.

#### **Decision Notice**

As soon as reasonably practicable after an Executive Portfolio Holder decision has been taken on a non key decision (by the Executive Portfolio Holder or by an officer through delegation), he will instruct the relevant Officer to prepare and publish a record of the decision, a notice of the reasons for it and any alternative options considered and rejected.

#### **Access to Documents**

The provisions with regard to accessing agendas, minutes and background papers (as set out in the meeting procedure rules) and the provisions with regard to accessing documents in the control of the Executive (as set out in these procedure rules) shall apply to documents relating to Executive Portfolio Holder Decisions.

#### **Consultation**

All reports to the Executive arrangements must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. The level of consultation required will be appropriate to the nature of the matter under consideration.



## **Access to Documents under the control of the Executive**

All Members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive arrangements and/or contains material relating to any business previously transacted at a meeting unless:

- it contains exempt information falling within the categories of exempt information or confidential information; in which case the Councillor will need to demonstrate 'a need to know', or
- it contains the advice of a political adviser.

## **Budget and Policy Framework**

### **Process for developing the Policy Framework**

The Forward Plan will set out the timetable for making proposals to the Council to develop the budget and policy framework and the arrangements for consultation. Four months notice (and at least 6 weeks) will normally be provided.

At the end of that period, the Executive will then draw up proposals having regard to the consultation responses received. If an Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. The report to the Council will reflect the comments made by consultees (in particular Overview and Scrutiny) and the Executive's response to them.

The proposals will be referred at the earliest opportunity to Council for decision.

### **Decisions outside the budget or policy framework**

If the Executive or any Committees of the Executive arrangements discharging executive functions wish 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 wish to make would be contrary or not wholly in accordance with the policy framework, or 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, except in the circumstances as set out below:

### **In-year changes**

The Executive arrangements may make in-year changes to the Budget and Policy framework in the following circumstances only:

- Changes which will result in the closure or discontinuance of a service or part of service or level of service to meet a budgetary constraint;
- Changes which may be necessary to ensure compliance with the law, ministerial direction or government guidance;
- Changes which may vary or develop the policy framework provided they are consistent with its principles and which, with any virement or supplementary expenditure, that may be possible under the Council's Financial Procedure Rules, be implemented within budget for the year, provided such changes do not commit the Council to expenditure in subsequent financial years.

### **Urgent changes**

A decision outside the budget and/or policy framework may be made under the Executive arrangements, if it is not practical to convene a quorate meeting of the full Council and if the Chairman of the Overview and Scrutiny Committee (or in their absence the Vice-Chairman or in the absence of both the Chairman of Council) agrees.

The reason why it is not practical to convene a quorate meeting of full Council and the consent of the Chairman of the Overview and Scrutiny Committee to the decision being taken as a matter of urgency must be noted in the record of the decision.

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.

### **Virement**

The Executive arrangements discharging functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, they shall be entitled to vire across budget heads in accordance with the rules specified by the Council's Financial Procedure Rules.

## **Overview and Scrutiny Procedure Rules**

### **Form and Composition of Overview and Scrutiny**

The Council will have an Overview and Scrutiny Committee and Resources and Performance Scrutiny Board each of 12 Members.

In addition, the Overview and Scrutiny Committee may appoint Task and Finish Groups (each of a maximum 12 members) for a fixed period, on the expiry of which they shall cease to exist. The number of Task and Finish Groups active at any one time will be kept under review by the parent Overview and Scrutiny Committee.

Overview and scrutiny meetings shall as a general principle meet in public, unless considering information classed as described as 'exempt' as described in the meeting procedure rules pages 59-60 of this constitution. This does not preclude but encourages flexible and innovative working such as the delegation of tasks to a member or a small informal working group of members meeting out of the public arena, consultations or any other form of working. Such working will be reported back to the relevant Overview and Scrutiny meeting.

In these procedure rules the terms 'overview and scrutiny' and 'overview and scrutiny meeting' shall be used to refer to the Overview and Scrutiny Committee, Resources and Performance Scrutiny Board and Task and Finish Groups collectively.

### **Task and Finish Groups**

The Overview and Scrutiny Committee will decide whether a Task and Finish Group should be formal and report directly to Executive or Council (subject to proportionality and Access to Information rules) or, informal and report back to the Overview and Scrutiny Committee (not subject to proportionality and Access to Information rules).

Task and Finish Groups may be established to undertake specific project work, policy development, a specific task, consultation, review investigation or similar activity. Task and Finish Groups would normally only make one final report during their lifetime.

Formally constituted Task and Finish Groups will be subject to these Overview and Scrutiny Procedure rules and Access to Information rules. Substitutes (alternates) will not be permitted.

At the first meeting of each new Task and Finish Group, they will carry out a stakeholder analysis exercise to determine who should be involved with their work and who should give evidence and who should be consulted. The stakeholder analysis will also highlight potential co-optees.

Task and Finish Groups may appoint any number of people (excluding members of staff or other Councillors) as non-voting co-optees to assist in any item of business, as they deem appropriate. Members of staff and other Councillors cannot be co-opted.

Each Task and Finish Group will also be required to agree a detailed work plan to enable them to complete their task within the agreed timescale.

### **Who May Sit on Overview and Scrutiny?**

All Councillors with the exception of members of the Executive may be appointed to one or more of the above overview and scrutiny meetings. However, no member may be involved in scrutinising a decision in which they have been directly involved.

At the first meeting of the Overview and Scrutiny Committee following the Annual Council meeting and on the establishment of a new Task and Finish Group the Overview and Scrutiny Committee shall in respect of each Task and Finish Group appoint one of its number to sit on each Task and Finish Group as the designated link member.

The designated link member to the Resources and Performance Scrutiny Board and Task and Finish Groups will:

- Provide expertise, assistance and guidance.
- Keep the Overview and Scrutiny Committee updated on progress.
- Help facilitate the smooth running of the overview and scrutiny function.
- Be a full member of the Resources and Performance Scrutiny Board or Task and Finish Group and eligible to be their Chairman or Vice-Chairman.

The political groups will allocate members to formal Task and Finish Groups according to proportionality, which shall be appointed under delegated authority by the Head of Legal and Democratic Services in consultation with the Chairman or in their absence the Vice-Chairman of the Overview and Scrutiny Committee.

Each Group may appoint up to a maximum of two named substitutes for each overview and scrutiny meeting (excluding Task and Finish Groups) for the municipal year. Casual substitutions (alternatives) will not be allowed.

Substitute (alternate) Members will have all the powers and duties of any ordinary member of the meeting. Substitutes (alternates) for the Overview and Scrutiny Committee will not be able to exercise any special powers or duties exercisable by the person they are substituting.

## **Involvement with Overview and scrutiny**

Any person including members and staff may be invited to attend, present evidence or share their expertise with any overview and scrutiny meeting in accordance with the Overview and Scrutiny Procedure Rules. Requests for staff to attend should be made through the Head of Paid Service.

## **Meetings of Overview and Scrutiny Committee and Resources and Performance Scrutiny Board**

The Overview and Scrutiny Committee and Resources and Performance Scrutiny Board will meet regularly on dates to be determined by Council on an annual basis.

They may agree to hold additional meetings as required.

## **Meetings of Task and Finish Groups**

Each Task and Finish Group shall determine the frequency, times and venues of their own meetings, in accordance with the timetable for the completion of their task as set out in their terms of reference.

## **Quorum**

The quorum for all Overview and Scrutiny meetings is three voting members.

## **Who Chairs Meetings?**

- The Chairmen of the Overview and Scrutiny Committee and Resources and Performance Scrutiny Board will be appointed by Council, with only Non-Executive Councillors entitled to vote.
- The Chairmen of Task and Finish Groups will be appointed by the Task and Finish Groups, from amongst their number and may be from any political group.

## **Work Programme**

The Overview and Scrutiny Committee and Resources and Performance Scrutiny Board will be responsible for setting their own annual work programme within the terms of reference set out in this Constitution.

The Overview and Scrutiny Committee shall write to all Councillors, Chief Executive, Strategic Directors, Heads of Service and ask the public for issues that should be considered for inclusion in the overview and scrutiny work programme. Issues will be assessed by the Committee using a template to determine the salience of the issue based on risk management, corporate priorities and other relevant factors.

## **Agenda Items**

- Any member of the Overview and Scrutiny Committee and Resources and Performance Scrutiny Board shall be entitled to give notice to the Chief Executive that they wish an item relevant to the terms of reference of the meeting of which they are a member to be included on the agenda for the first available meeting. The meeting will determine whether the issue should be included in its work programme based on its relevance as compared to the priorities as set out in the overview and scrutiny work programme.
- Any member of the Council may give written notice to the Chief Executive that they wish a local matter relating to the work of the authority to be considered for inclusion in the overview and scrutiny work programme. If the Chief Executive receives such a notification, then he will refer the request to the first available meeting of the Overview and Scrutiny Committee who will determine if, when and how the item will be considered based on its relevance as compared to the priorities as set out in the overview and scrutiny work programme and inform Legal and Democratic Services accordingly so that it can be included in the overview and scrutiny work programme.
- The Overview and Scrutiny Committee is not obliged to pursue a matter referred by a member of the Council but it must let that member know the reasons for its decision. When deciding how to proceed, the Overview and Scrutiny Committee may consider representations from the member who referred the matter, and to take into account the extent to which that member has exercised their function as a ward member to resolve it. Where they do pursue a matter, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the member who raised the matter.
- The Overview and Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the Council and Executive to undertake a piece of work on their behalf in line with the procedure above. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive or Council. Council or Executive shall consider the report of the Overview and Scrutiny Committee at its first available meeting.

## **Policy Review and Development**

The role of overview and scrutiny in relation to the development of the Council's existing Budget and Policy Framework is set out in detail in the terms of reference in Part 1 of this constitution.

In relation to the development of the Council's approach to other matters not forming part of the Budget and Policy Framework, the overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to

assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations, subject to finance being available. They may invite witnesses to attend to address them on any matter under consideration.

- Once it has formed recommendations on proposals for policy development, the overview and scrutiny committees will prepare a formal report for consideration by the Executive or Council.
- Executive or Council shall consider the report of the overview and scrutiny committees at their first available meeting.
- The Overview and Scrutiny Committee will have access to the Leader of the Council's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from overview and scrutiny following a consideration of possible policy/service developments, the Overview and Scrutiny Committee will be able to respond in the course of the Executive's consultation process in relation to any key decision.

#### **Process for Overview and Scrutiny Reports to be Considered by the Executive, Council, Partner Authority or External Body**

- Once Overview and Scrutiny Committee or Resources and Performance Scrutiny Board has completed its deliberations on any matter, it will forward a copy of its final report to the Chief Executive who will allocate it either to the Executive, Council, relevant committee, relevant partner authority or external body according to the contents of the report.
- The overview and scrutiny committees must give the Executive, Council, relevant committee or external body notice in writing specifying the steps which must be taken within two months of receiving the report or recommendations or, if later, the notice. These steps include responding to the report or recommendations and, if these documents have been published by the overview and scrutiny committee, publishing the response.
- The Executive, Council, relevant committee or external body must comply with the notice.
- Where a relevant overview and scrutiny committee make a report or recommendations regarding a local improvement target which relates to a relevant partner authority and is specified in a Local Area Agreement of the authority it may give the relevant partner authority notice in writing requiring them to have regard to the report or recommendations in exercising their functions.

- The relevant partner authority has a duty to comply with the requirement specified in the notice.
- The overview and scrutiny committees must exclude confidential and may exclude exempt information when publishing a document or providing a copy of it to a relevant partner authority. The overview and scrutiny committee may, in publishing a document, or providing a copy of it, replace any part of the document which discloses confidential or exempt information with a summary that does not disclose that information.

### **Rights of Overview and Scrutiny Members to Documents**

- Overview and scrutiny members will be entitled to copies of any document which is in the possession or control of the Executive (or its committees) or individual Portfolio Holders and which contains material relating to:
  - any business transacted at a meeting of the Executive (or its Committees); or
  - any decision taken by an individual member of the Executive.
- Overview and scrutiny members will not be entitled to:
  - any document that is in draft form;
  - 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
  - the advice of a political adviser.
- Nothing prevents more detailed liaison between the Executive and overview and scrutiny as appropriate depending on the particular matter under consideration.

### **When an Overview and Scrutiny Committee can require a report**

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

- included in the forward plan; or
- the subject of the general exception procedure; or
- the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Chairman/Vice-Chairman of the Council under the special urgency rules;



the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by the Chairman. Alternatively the requirement may be raised by resolution passed at a meeting.

### **Members and Officers Giving Account**

Any overview and scrutiny meeting may scrutinise and review decisions made, or actions taken in connection with the discharge of any Council functions within its terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member(s) of the Executive, Chairman of Council Committee, ward member and/or Chief Officers to attend before it to explain, answer questions, or give evidence in relation to matters within their remit regarding:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- the performance of any Council service within their remit;

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

Where any member of the Executive, Chairman of Council Committee, ward member and/or Chief Officer is required to attend an overview and scrutiny meeting under this provision, the Chairman of that meeting will inform the Head of Paid Service. This power may be exercised by the Chairman of an Overview and Scrutiny meeting in advance of a meeting. The Head of Paid Service shall inform the Executive Member, ward member and/or appropriate Officer in writing, giving reasonable notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced. Where papers are required to be produced then the Executive Member, ward member or appropriate Officer concerned, will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Executive member, Chairman of Council Committee, ward member and/or Chief Officer is unable to attend on the required date, then the overview and scrutiny meeting shall in consultation with the Executive member, ward member or appropriate officer, arrange an alternative date for attendance or in the case of officers request a suitable replacement to be agreed by the Head of Paid Service.

### **Attendance by Others**

An overview and scrutiny meeting may invite any person to address it, to discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other

parts of the public sector and shall invite such people to attend. Attendance under this paragraph is entirely optional.

- Power to issue an invitation may be exercised by the Chairman of an overview and scrutiny meeting in advance of a meeting.
- As a general principle overview and scrutiny meetings, including the consideration of Call-in decisions, should be open to any interested Councillor or group of Councillors such as a relevant Task and Finish Group and their attendance encouraged and contributions welcomed at the discretion of the Chairman.

### **The Party Whip**

For the purposes of this part of this Constitution, "the party whip" means 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 speak or vote in any particular manner.

Overview and scrutiny Members should not normally be subject to a party whip. Where an overview and scrutiny Member is subject to a party whip they must declare this at the beginning of the meeting and it should be recorded in the minutes.

### **Referral of decisions outside the budget or policy framework**

Where an overview and 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 Finance Officer.

In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and/or Chief Finance Officer's report.

If the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure the Executive must prepare a report to Council.

If the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure the Executive must prepare a report to the Overview and Scrutiny Committee.

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 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 Committee 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 days) of the request by the Overview and Scrutiny Committee.

### **Call-in of Executive and other decisions**

Details of any decision made, decisions taken at meetings of the Executive, or a committee of the Executive, and any decisions taken by individual portfolio holders will normally be published by 5pm on the next working day after they have been made. This decision notice will be made publicly available and all Members of the Council will receive notification (normally by e-mail) of the decisions taken.

The notice will specify that the decision will come into force and take effect at noon on the third working day following publication of the decision, unless it is called-in.

The Chief Executive shall call in a decision for scrutiny if so requested in writing, by e-mail or by text from a known or recognised source by any 6 non-executive members of the Council within the specified timescale.

However if at any point during a municipal year the total number of opposition councillors is 6 or less the total number of non-executive members required to call in a decision shall be the total number of opposition Councillors less two. This reduced number will apply to any Call-in, regardless of the political affiliation of the members concerned.

In all cases the request for Call-in must set out the reasons for the request.

On receipt of a Call-in request, the Chief Executive shall call-in the decision and notify the decision taker and Chairman of the Overview and Scrutiny Committee of the Call-in.

The Overview and Scrutiny Committee must consider the decision within 10 days of the decision to Call-in, and if necessary, it may be dealt with as an item of urgent business at a scheduled meeting of the Overview and Scrutiny Committee within that period. If the Overview and Scrutiny Committee does not meet within 10 days and consider the matter the decision shall take effect on the expiry of that period.

The Overview and Scrutiny Committee upon hearing a Call-in may decide to let the decision stand, refer the decision back to the decision maker for reconsideration or exceptionally refer the decision to Council if it is of the view that the decision is contrary to the Council or policy framework, or not wholly consistent with the budget.

If the Overview and Scrutiny Committee refer a decision back to the decision maker for reconsideration they must set out in writing the reasons for their concerns and their preferred course of action.

Reconsideration by the decision maker shall take place at the next scheduled meeting of the Executive or a Committee of the Executive. In the case of decisions taken by individual portfolio holders the date of reconsideration will be set by the relevant portfolio holder in consultation with the Chief Executive and Leader of the Council. In the case of delegated decisions taken by officers, the decision shall be referred back to the portfolio holder in the first instance for reconsideration. Portfolio holders have the option of forwarding any decision referred to them to the full Executive for reconsideration.

If on reconsideration by the decision maker the original decision is upheld or the recommendations of the Overview and Scrutiny Committee are accepted then the decision shall take effect immediately and shall not be subject to a further Call-in period.

If for any reason either Overview and Scrutiny or the decision maker fails to meet and carry out their obligations under this process or in the event of any situation not foreseen in this procedure the issue will be referred to Council for the process to be resolved. Implementation of the decision will be postponed until Council has determined how it shall be resolved.

If the Overview and Scrutiny Committee decide not to refer a decision back to the decision maker or to Council, the decision shall take effect immediately at the conclusion of the meeting at which the Call-in has been considered.

If the Overview and Scrutiny Committee is considering a called-in matter where the decision taker is recommending to the Council it may formulate alternative proposals for the Council to consider.

A request to Call-in a decision may only be nullified by agreement of all the Call-in signatories.

In the case of a Called-in decision being referred to Council if the Council decide that the called-in decision was contrary to the policy framework or not wholly consistent with the budget it shall decide on the issue in question.

If the Council decide that the called-in decision was not contrary to the policy framework or consistent with the budget then no further action is necessary and the decision will take effect on the date of the Council meeting.

The call-in procedure is not intended to be used to challenge decisions as a matter of course, and should not be abused in order, for example, simply to cause delay in implementing decisions.

## **Call-in and Urgency**

The call-in procedures set out above shall not apply where the decision being taken by the Executive, individual portfolio holder, Committee or Sub-Committee is urgent. A decision is urgent if any delay is likely seriously to prejudice the Council's or the public's interest. The record of the decision and the notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one and therefore not subject to call-in. In all cases, the Chief Executive must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency and if agreed, shall circulate the decision electronically to members of Executive and Overview and Scrutiny.

The Chief Executive shall then ask the Chairman of the Overview and Scrutiny Committee to agree to Call-in being waived. In the absence of the Chairman, the Vice-Chairman's consent shall be required, and in the absence of the Vice-Chairman, the Chairman of Council.

## **Call-in Protocol at Overview and Scrutiny Committee**

In considering a Call-in decision the Overview and Scrutiny Committee will follow this protocol:

### **Before Receipt of Call-in**

Overview and scrutiny support officers will work with the Call-in signatories to complete the reasons for Call-in. Completed reasons for Call-in will be received by Chief Executive, who will then consider whether to Call-in the decision.

### **After Receipt of Call-in and before the meeting**

The Chief Executive will confirm the validity of the Call-in and advise all Councillors and Corporate Management Team members of the Call-in request. The Chief Executive will determine which portfolio holder or decision taking officer should attend the Call-in, which officer should accompany them and which officer they appoint to advise the Overview and Scrutiny Committee on the Call-in.

Overview and scrutiny support officers will meet with the Call-in signatories, to clarify the procedure, consider how they will present the Call-in and prevent duplication. Overview and scrutiny support officers will brief the Chairman on the Call-in.

## **Documents**

The agenda will contain:

- This Call In Protocol

- The Call-in request
- The Portfolio Holder decision statement or minutes\*
- The original report(s) upon which the decision was made
- (In the case that either the minutes or report are exempt a public summary of information will be provided as far as is possible).

Any other document that the Chief Executive, Portfolio Holder or Call-in signatories feel would assist the Committee in considering the Call-in.

### **At the start of the meeting**

The Chairman will outline the procedure for the meeting, setting the tone and approach that will be taken.

### **The meeting**

The spokesperson(s) for the Councillors who have made the Call-in request (who shall be seated together) should outline the reasons for the Call-in. Each speaker will be time limited to 5 minutes.

The relevant Portfolio Holder or decision taking officer explains the rationale for the decision and may be supported by officers and the Leader of the Council as appropriate. They shall also be seated together. Each speaker will be time limited to 5 minutes.

Councillors who have made the Call-in request have the opportunity to question the Portfolio Holder or decision taking officer.

Other members of the Overview and Scrutiny Committee have the opportunity to question the Portfolio Holder or decision taking officer.

At the discretion of the Chairman, other members present may have the opportunity to question the Portfolio Holder or decision taking officer or make a brief statement.

At the discretion of the Chairman, anyone else present may have the opportunity to make a statement (limited to 5 minutes) on the issue.

The Portfolio Holder or decision taking officer will have a right of reply to any brief statement made on the issue.

Before forming a decision, the Chairman may decide to adjourn the meeting in order to allow the Call-in signatories to reflect on the evidence received and to consider any proposals they wish the Committee to consider.

The Overview and Scrutiny Committee will debate on the issue, only members of the Committee and the officer appointed by the Chief Executive to advise the Overview and Scrutiny Committee on the Call-in may speak.

If there is no proposal the Chairman or another member may propose a motion which can be voted on in the normal way.

### **Options available to the Overview and Scrutiny Committee**

There are only three options available to the Overview and Scrutiny Committee when they are considering a call in:

- Let the decision stand
- Refer the decision back to the decision taker, stating their concerns and the decision that the Committee wish the decision taker to make.
- Refer the decision to full Council if the decision is contrary to the policy framework or contrary to or not wholly consistent with the budget.

Additionally the Overview and Scrutiny Committee may make other recommendations as a result of the Call-in to relevant bodies, which shall be considered after a decision has been reached on the Call-in.

## Appeals Panel Procedure Rules

The Appeals Panel shall follow the Procedure Rules as set out below:

- An appeal will be initiated by the appellant requesting and providing in writing the reasons for their appeal.
- All reasonable efforts will be made to arrange a convenient date and time for the appeal within the prescribed timescales. The failure of a party to attend an appeal shall not prevent the appeal from being considered.
- The appellant and respondent will provide any documentation they wish the Panel to consider prior to the deadline for agenda publication as notified by Legal and Democratic Services.
- Both the appellant and the respondent may be accompanied by a representative who may assist or speak on behalf of them at the appeal.
- Supplementary documentation produced after this time will only be admitted at the discretion of the Panel and with agreement of all parties to the appeal.
- Before the meeting both parties will wait outside the meeting room.
- The Democratic Support officer, the HR advisor and Legal advisor (if required) (who will all previously have not been involved with the appeal at a previous stage) will brief the Panel. The advisors to the Panel may at any point during the appeal seek clarification on any issue with regard to the appeal and will provide procedural guidance to the Panel.
- Both parties to the appeal will be admitted to the room, the Chairman will introduce those present, the procedure will be outlined by Democratic Support Officer and questions on the procedure will be invited.
- The appellant and their representative will make their case.
- The appellant may be questioned by the respondent and then the Panel
- The respondent will make their case.
- The respondent may be questioned by the appellant and then the Panel.
- The respondent will have opportunity to sum up.
- The appellant will have opportunity to sum up.



- Both parties will be asked to leave.
- The Panel will then decide whether to ask the parties to wait whilst a decision is reached or confirm that a letter will be sent confirming the outcome.
- The Committee will make their decision.
- The Panel may readmit both parties to give their decision.
- A formal letter will be sent to all parties confirming the decision of the Panel, as well as confirming any further rights of appeal. A copy will be retained by the Head of Paid Service.

## **Licensing Committee Procedure Rules**

### **Alternate Members**

Only specifically named alternate Members may substitute for members of the committee.

### **Licensing Sub Committee**

The Licensing Subcommittee will be made up of any 3 Members to be drawn from the membership of the parent Committee. Members must have received appropriate training and must have taken a non-committal approach to any lobbying in respect of the appeal to be heard, otherwise they may not participate in the hearing.

The procedures followed for Licensing and Gambling matters are determined by the Licensing Act 2003 and the Gambling Act 2005, the Subcommittee will follow the procedures set out in statute when determining these matters. In all other cases the subcommittee will follow council meeting procedural rules as set out in the Local Government Act 1972.

### **Licensing Hearing Procedure**

In making their decision the members of the hearing must consider the four Licensing Objectives

- the Prevention of Crime and Disorder;
- Public Safety
- the Prevention of Public Nuisance; and
- the Protection of Children from Harm

The Chairman opens the meeting, introducing the Members of the Sub-Committee and Officers present.

The Chairman confirms that all parties have received all of the necessary papers from the Council.

The Chairman outlines the procedures to be followed.

The Chairman will ask the parties if they have any questions on the procedure.

Members consider any request by any party under regulation 8(2) for permission for another person to appear at the hearing.

The Chairman confirms with the parties that they are ready to proceed with the Hearing.

The Chairman invites the Licensing Officer to outline the application and the representations that have been received.

Members clarify any points with the Licensing Officer regarding the report.

The Chairman asks the applicant if they wish to address the Committee on any issues arising from what the officer said.

The Chairman invites the applicant or their representative to address the Sub-Committee.

The Chairman asks the parties making representations if they wish to put questions to the applicant.

Through the Chairman, members put questions to the applicant.

The Chairman invites the parties making representations or their representative to address the Sub-Committee.

The Chairman asks the Applicant if they wish to put questions to the parties making representations.

Through the Chairman, members put questions to the parties making representations.

The Chairman asks the parties making representations to clarify anything arising during the presentation of their representations.

The Chairman invites each party to make their closing addresses.

The Chairman asks all parties to confirm that they are satisfied that they have said all they wish to say.

The Chairman will inform everyone attending the Hearing that the Sub-Committee will retire in order to make their decision in private session.

When the decision has been reached, the Chairman will address the Hearing to announce its decision, communicate the determination of the application and the reasons for that determination. The chair will also outline the process thereafter concerning written confirmation.

### **Licensing Review Hearing Procedure**

In making their decision the members of the hearing must consider the four Licensing Objectives

- the Prevention of Crime and Disorder;
- Public Safety
- the Prevention Public Nuisance; and

- the Protection of Children from Harm

The Chairman opens the meeting, introducing the Members of the Sub-Committee and Officers present

The Chairman confirms that all parties have received all of the necessary papers from the Council.

The Chairman outlines the procedures to be followed.

The Chairman will ask the parties if they have any questions on the procedure.

Members consider any request by any party under regulations 8(2) for permission for another person to appear at the hearing.

The Chairman confirms with the parties that they are ready to proceed with the Review Hearing.

The Chairman invites the Licensing Officer to outline the application for review of the Premises Licence and the representations that have been received.

Members clarify any points with the Licensing Officer regarding the report.

The Chairman invites the applicant for review or their representative to address the Sub-Committee

The Chairman asks the Premises Licence Holder if they wish to put questions to the applicant for review.

The Chairman asks the parties making representations (if any) if they wish to put questions to the applicant for review.

Through the Chairman, members put questions to the applicant for review

The Chairman asks the applicant or review to clarify anything arising during the presentation of their representations.

The Chairman invites the parties making representations or their representative to address the Sub-Committee

The Chairman asks the Premises Licence Holder if they wish to put questions to the parties making representations.

The Chairman asks the applicant for review if they wish to put questions to the parties making representations.

Through the Chairman, members put questions to the parties making representations.

The Chairman asks the parties making representations to clarify anything arising during the presentation of their representations.

The Chairman invites the Premises Licence Holder or their representative to address the Sub-Committee in response to the application for review.

The Chairman asks the applicant for review if they wish to put questions to the Premises Licence Holder.

The Chairman asks the parties making representations (if any) if they wish to put questions to the Premises Licence Holder.

Through the Chairman, members put questions to the Premises Licence Holder.

The Chairman asks the Premises Licence Holder to clarify anything arising during the presentation of their response.

The Chairman invites each party to make their closing addresses

The Chairman asks all parties to confirm that they are satisfied that they have said all they wish to say.

The Chairman will inform everyone attending the Review Hearing that the Sub-Committee will retire in order to make their decision in private session.

When the decision has been reached, the Chairman will address the Review Hearing to announce its decision, communicate the determination of the review and the reasons for that determination. The chair will also outline the process thereafter concerning written confirmation.

### **Note**

- Where a statement from a proposed witness is served on the licensing authority and all other relevant parties at least 14 days prior to the date notified for the hearing of the review, that witness statement will be taken as fact unless written notice requiring the attendance of that witness is given to the party putting forward the witness and to the licensing authority at least five working days prior to the hearing.
- When a written statement from a witness has previously been circulated to the Sub-Committee and all other parties that statement will be taken as read at the hearing. The party putting forward the witness may ask questions of the witness to bring out the salient points in the statement.

### **Gambling Hearing Procedure**

In making their decision the members of the hearing must consider the three Gambling Licensing Objectives

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Chairman opens the meeting, introducing the Members of the Sub-Committee and Officers present.

The Chairman confirms that all parties have received all of the necessary papers from the Council.

The Chairman outlines the procedures to be followed.

The Chairman will ask the parties if they have any questions on the procedure.

Members consider any request by any party under regulations 9(1) for permission for another person to appear at the hearing.

The Chairman confirms with the parties that they are ready to proceed with the Hearing.

The Chairman invites the Licensing Officer to outline the application and the representations that have been received.

Members clarify any points with the Licensing Officer regarding the report.

The Chairman asks the applicant if they wish to address the Committee on any issues arising from what the officer said.

The Chairman invites the applicant or their representative to address the Sub-Committee.

The Chairman asks the parties making representations if they wish to put questions to the applicant.

Through the Chairman, members put questions to the applicant.

The Chairman invites the parties making representations or their representative to address the Sub-Committee.

The Chairman asks the Applicant if they wish to put questions to the parties making representations.

Through the Chairman, members put questions to the parties making representations.

The Chairman asks the parties making representations to clarify anything arising during the presentation of their representations.

The Chairman invites each party to make their closing addresses.

The Chairman asks all parties to confirm that they are satisfied that they have said all they wish to say.

The Chairman will inform everyone attending the Hearing that the Sub-Committee will retire in order to make their decision in private session.

When the decision has been reached, the Chairman will address the Hearing to announce its decision, communicate the determination of the application and the reasons for that determination. The chair will also outline the process thereafter concerning written confirmation.

### **Gambling Review Hearing Procedure**

In making their decision the members of the hearing must consider the three Gambling Licensing Objectives

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Chairman opens the meeting, introducing the Members of the Sub-Committee and Officers present

The Chairman confirms that all parties have received all of the necessary papers from the Council.

The Chairman outlines the procedures to be followed.

The Chairman will ask the parties if they have any questions on the procedure.

Members consider any request by any party under regulations 8(2) for permission for another person to appear at the hearing.

The Chairman confirms with the parties that they are ready to proceed with the Review Hearing.

The Chairman invites the Licensing Officer to outline the application for review of the Premises Licence and the representations that have been received.

Members clarify any points with the Licensing Officer regarding the report.

The Chairman invites the applicant for review or their representative to address the Sub-Committee.

The Chairman asks the Premises Licence Holder if they wish to put questions to the applicant for review.

The Chairman asks the parties making representations (if any) if they wish to put questions to the applicant for review.

Through the Chairman, members put questions to the applicant for review

The Chairman asks the applicant or review to clarify anything arising during the presentation of their representations.

The Chairman invites the parties making representations or their representative to address the Sub-Committee

The Chairman asks the Premises Licence Holder if they wish to put questions to the parties making representations.

The Chairman asks the applicant for review if they wish to put questions to the parties making representations.

Through the Chairman, members put questions to the parties making representations.

The Chairman asks the parties making representations to clarify anything arising during the presentation of their representations.

The Chairman invites the Premises Licence Holder or their representative to address the Sub-Committee in response to the application for review.

The Chairman asks the applicant for review if they wish to put questions to the Premises Licence Holder.

The Chairman asks the parties making representations (if any) if they wish to put questions to the Premises Licence Holder.

Through the Chairman, members put questions to the Premises Licence Holder.

The Chairman asks the Premises Licence Holder to clarify anything arising during the presentation of their response.

The Chairman invites each party to make their closing addresses

The Chairman asks all parties to confirm that they are satisfied that they have said all they wish to say.



The Chairman will inform everyone attending the Review Hearing that the Sub-Committee will retire in order to make their decision in private session.

When the decision has been reached, the Chairman will address the Review Hearing to announce its decision, communicate the determination of the review and the reasons for that determination. The chair will also outline the process thereafter concerning written confirmation.

### **Hackney Carriage and Private Hire Vehicle Appeals Procedure**

The Chairman opens the meeting, introducing the Members of the Committee and Officers present.

The Chairman outlines the procedures to be followed.

The Chairman confirms the applicant(s) have received all of the necessary papers from the Council.

The Chairman will ask the appellant if they have any questions on the procedure.

The Chairman will confirm with the appellant that they are ready to proceed with the hearing.

The Chairman will invite the Licensing Officer to outline the reasons for refusal, revocation or suspension of the Hackney Carriage/Private Hire Drivers Licence to the appellant.

The Chairman will allow the appellant to ask any questions arising from what the Licensing Officer has said.

Members of the Committee may clarify any points with the Licensing Officer regarding the refusal.

The Chairman asks the appellant or their representative if they wish to address the Committee.

Through the Chairman the Members put any questions to the appellant.

The Chairman asks the appellant if they wish to clarify any points and briefly summarise their appeal.

The Chairman will confirm with everyone that they have said everything they wish to say.

The Chairman will inform everyone attending the Appeal that the Committee will retire in order to make their decision in private session. The options open to the Sub-Committee are, in broad terms:

Uphold the decision of the Head of Urban and Rural Services in their capacity as Licensing Officer and refuse, revoke or suspend the grant of a Hackney Carriage/Private Hire Drivers Licence.

Rescind the decision of the Head of Urban and Rural Services in their capacity as Licensing Officer and grant the Hackney Carriage/Private Hire Drivers Licence.

When the decision has been reached the Chairman will address the Appeal and outline the process thereafter concerning written confirmation.

## **Planning Committee Procedures**

### **Membership**

In accordance with Government guidance, it is Council policy that every Member of the Council must receive formal training in the planning system (to be arranged by the Head of Development Control and Major Developments) before serving on the Planning Committee or as soon as possible after their appointment to the Committee. Similarly, any present or newly elected Member participating in the determination of a planning application by full Council, must receive such training as soon as possible.

Members who are not trained, but who become Members of the Planning Committee, may participate in two Planning Committee meetings whilst the necessary training is undertaken. If training is declined or not undertaken for any reason, then the Member concerned would not be able to participate in Planning Committee meetings. Similarly, Members may only participate in planning decisions at one Council meeting without having undertaken the necessary training. The Chairman of the Council or of the Planning Committee as the case may be will be cognisant of those Members who have not undertaken training and will rule accordingly if Members who have not been trained seek to participate in determining planning applications.

Planning Committee membership be made up primarily of non-executive members, but with specific reservation of a place for the Planning Portfolio Holder

### **Requests by the Public to Address the Planning Committee**

1. Members of the public, including the applicant (or their representative), representatives from the relevant Town or Parish Council, local interest groups and local civic societies, may address the Planning Committee during consideration of any application for planning permission
2. Each speaker will be able to speak for up to a maximum of three minutes each (subject to paragraph 5 below).
3. Speakers will be grouped together as either Objectors or Supporters.
4. Where more than one person has registered to speak in any of the above groups of speakers, there will be a 9 minute time limit for each group. Town and Parish Council Representatives will be allotted the first three minute time slot of their group. All other speakers will be heard in the order in which they registered to speak on a strictly "first come, first served" basis. When more than one speaker has registered in each group, speakers are encouraged to appoint a spokesperson. If no spokesperson is nominated speakers will be heard in the order in which they have registered until the 9 minute period has elapsed. No more than three speakers (including town/parish representatives) may register to speak in each group.

5. Each group will be given the opportunity to speak for an equal period of time, to ensure a fair hearing. For example, if there is only one supporter and 3 objectors, the supporter will be given the opportunity to speak for 9 minutes.
6. An application to speak must be received in writing or by electronic mail by Democratic Services by midday on the last working day before the Committee meeting. Applications to speak at Committee will only be accepted by persons who have made written representations on an application as part of the consultation process or the applicant. Persons who have registered to speak may appoint someone to speak on their behalf provided that written authority from the person who has registered to speak is given to Democratic Services before the Committee meeting commences.
7. When there is a linked or duplicate application each speaker can only speak on one application site, regardless of the number of applications for that site. For example, in the case of linked applications for planning permission and listed building consent on the same property, speakers may only speak once.
8. When planning applications are referred to Council by the Head of Development Control and Major Developments only members of the public who spoke on the application at the Planning Committee are permitted to speak. The normal Council public speaking rules apply, as set out in the Council procedure rules.
9. When planning applications are referred to Council by Councillors the normal Council public speaking rules apply, as set out in the Council procedure rules.

## **Procedure**

10. On the last working day before the Committee meeting when the deadline to register has passed Democratic Services will confirm with speakers how long they have to speak. As both sides must be given the opportunity to speak for the same time period, any requests to speak received after midday on the last working day before the Committee meeting will not be accepted.
11. Members of the public who have registered to speak must sign a declaration on conduct at Committee; members of the public who do not sign the declaration will not be permitted to speak at Committee.
12. Before the application report is considered in detail, the Committee may agree that the application be deferred for a site visit, or to obtain further information. In that case, there will be no public participation on the application until it is reconsidered at a future meeting. Persons who have registered to speak on applications that are deferred to future meetings of the Planning Committee are not required to register again.

13. The Planning Officer will present the application to the Committee and inform Members of any late representations or updates.
14. Ward Members and any Members of the Committee with a prejudicial interest will then be entitled to speak on the application. After making their presentation Ward Members may, at the request of the Chairman, answer questions and sum up their view at the end of the debate they then must return to the public gallery. Members of the Committee with a prejudicial interest must leave the room for the debate and vote.
15. The persons who have registered to speak will then be introduced by the Chairman in order of Objectors and Supporters, with the applicant always speaking last. Once a speaker has made their statement there will be no further right to address the meeting and at this point speaker must return to the public gallery.
16. The Planning Officer will then clarify any planning points made by speakers relevant to the application.
17. The Committee will debate the application and make a decision on the application.
18. Members of the public may not show plans, photographs or circulate written material.
19. The Chairman of the meeting may:
  - (a) vary the order of representation if he/she considered that it is convenient and conducive to the despatch of the business and will not cause prejudice to the parties concerned, or
  - (b) remove any person from the meeting if they behave in a disorderly manner.

### **Site Visits**

Any Member of the Planning Committee may propose a site visit but the reasons relating to the above criteria must be stated and recorded in the minutes, and a majority vote will determine if a site visit is to be undertaken.

#### **Formal Site Visits Authorised by Committee**

In considering the need for a site visit the Committee should have regard to the general advice contained in Section 14 of the Planning Matters Good Practice Guidance for Members and Officer in Part 3 of the Constitution. The purpose of a site visit is solely to ascertain the facts relating to the physical nature of the site and its surroundings. The decision to carry out a site visit should normally be based on one or more of the following criteria:-

- Illustrative material is insufficient to convey the issues

- A judgement is required on visual impact
- The setting and surroundings are particularly relevant to the determination or conditions being considered
- It is necessary to experience similar/comparable conditions at another location/site
- The proposal is of particular significance although applications which raise issues of principle or fundamental planning policies will not normally be appropriate for a formal site visit
- It is appropriate to make an informed assessment of the proposals which are subject to conflicting claims by applicants and objectors which cannot be adequately expressed in writing; or the proposal is particularly contentious.

Before the site visit:-

- Letter sent to applicant/agent and Ward Members informing of the decision, time, date, purpose and protocol for visit
- Letter sent to third parties where access to their private property may be required. Notification of date, time, purpose and protocol for visit also given

Who may be present and take part in the proceedings:-

- All Committee Members or their nominated Alternates who will also be attending the decision-making meeting in that capacity
- Ward Councillors who do not serve on the Planning Committee (subject to the other provisions of this protocol)
- Relevant officers (including representatives of other organisations, for example County Highway Authority or Environment Agency, if necessary)
- a written record of those attending in any of the above capacities should be made planning officers at the time of the visit.

General onlookers, supporters and objectors will not be allowed to participate. The applicant may be present but should not address the Committee other than to respond to factual questions relevant to the site visit put to him/her at the discretion of the Chairman. Any such questions to the applicant will be made through the Chairman/Planning Case Officer during the visit.

Conduct of visits:-

- Visits will be conducted in a formal manner

- Chairman or Vice-Chairman will open meeting and advise Members of purpose and conduct
- Officers will report any apologies and highlight issues relevant to the site inspection
- Other Members/Officers to ask questions of the Planning Case Officer or on occasion the applicant as to physical characteristics and surroundings
- Chairman to close

#### General matters

- There will be no debate about the merits of the application and no decisions taken
- No formal notes will be made. The Planning Case Officer will update the Committee on the site visit when it next meets to consider the application
- where appropriate this protocol may be sent to parish/town councils and applicants for information.

#### Unaccompanied Site Visits

Members of the Planning Committee have a long established practice of visiting sites before Committee meetings. Such visits are undertaken individually by Members unaccompanied by Officers. The criteria listed in above applies equally to this type of site visit. The disadvantage is that these visits can be used by applicants, agents and objectors to undertake unwarranted lobbying and where a Member visits private property it can be interpreted as showing favour to the person visited.

#### Conduct of Visits

- visits to look at application sites should, whenever possible, take place from the public highway or adjacent public land
- permission must always be requested to enter on to private land
- where sites are visited particularly in isolated rural areas, where security is of concern, it may be sensible for the Member to go to the applicant's door to explain the reasons why they are there
- on the occasions when the applicant or objector approaches the Member on site they should explain that they are a Member of the Planning Committee (or Council) viewing the site for the Committee (Council) meeting

- no views or opinions should be expressed on the application as the Member must be seen to be impartial
- under no circumstances should Members enter the grounds of private property without the owner's permission
- the homes of applicants and objectors should not be visited unless there are good and supportable planning reasons for doing so. If there are any doubts about whether there are good planning grounds the Member should discuss this with the Head of Legal and Democratic Services or the Solicitor who attends the Committee
- where homes are visited this should be for as short a period as possible and hospitality of any kind, if offered, should be courteously refused
- visits should not be used to canvass local opinion on an application
- identification should be carried at all times and this must be produced on request.

### **Referral of applications to Council by the Head of Development Control and Major Developments**

Where a decision of the Planning Committee is contrary to both the Officer's recommendation and approved planning policy, the Head of Development Control and Major Developments has the right to refer the application to Council for determination. Before doing so he will advise the Committee of his intention to refer the application to Council before the Committee vote on the application.

When an application is to be referred to Council the Head of Development Control and Major Developments must arrange to advise, as soon as practicable, the applicant, agent and (where relevant) appropriate third parties of the date and time of the meeting. The Head of Development Control and Major Developments should also advise the Head of Legal and Democratic Services that an application is to be referred so that all Members of the Council can be similarly informed of the meeting arrangements.

The Minutes of the Planning Committee and Council should always include a detailed Minute setting out the reasons why an Officer recommendation was not accepted and a copy should be placed on the planning application file as appropriate.



## **Member Call-In**

Member 'call-in' of Officer delegated cases to the Planning Committee shall be accepted on the advice of the committee Chairman, or in his absence the vice-chairman as set out in the scheme of delegation;

## **Standards Committee**

### **Procedure Rules**

#### **Membership**

The Standards Committee will be composed of:

8 members of the Council

4 independent members

2 parish council members

and may not include more than one member of the Executive, who shall not be the Executive Leader.

Where possible there will also be 2 fully trained substitute parish council members

Political groups on Cherwell District Council shall be entitled to the same number of named substitute members as they have places on the committee.

The Chairman and Vice-Chairman of the Committee will be independent members.

Independent members of the committee will be appointed initially for a period of three years and may only serve a maximum of eight years on the committee.

#### **Quorum**

The Quorum for the Committee is 3 members including at least one independent member.

For the conduct of business relating to Parish Councils at least one parish member of the Committee must be present.

#### **Urgency**

The Monitoring Officer in consultation with the Chairman may grant urgent dispensations to members where a meeting of the Standards Committee has not been arranged. Dispensation may be granted to members to attend meetings where they would otherwise be excluded because they have a prejudicial interest. This can happen when more than 50% of the council or a committee would be prevented from taking part in a meeting because of prejudicial interests, or when political balance of the council or committee would be upset.

#### **Local Determination of Complaints**

When a complaint relating to a breach of the Code of Conduct by a Member is received by the Monitoring Officer it will initially be assessed by an Assessment Subcommittee.

All new complaints must be considered by the Standard Committee unless the complaint has already been stated and the Monitoring Officer does not believe any new evidence has been presented.

### **Assessment Subcommittee**

The assessment subcommittee will be 3 members of the Standards Committee including at least one independent member and will be chaired by an independent member.

The purpose of the initial assessment subcommittee is to decide if any action should be taken on the complaint. The subcommittee may choose to:

- investigate the complaint or
- take other action, for example, mediation or training

The assessment subcommittee will complete its initial assessment of an allegation within 20 working days of receiving the complaint.

In the event that the assessment subcommittee decides the complaint should be investigated it will refer the matter to the Monitoring Officer. The Monitoring Officer will write to the relevant parties informing them of the decision taken.

If the subcommittee feels there are public interest considerations which make it difficult for the committee to deal with the complaint fairly they may decide to refer the matter to the Standards Board for England for investigation.

### **Review Subcommittee**

A complainant may request a review of the assessment subcommittee's decision if it decides to take no further action. A review subcommittee will be formed to consider the review, but not from the membership of the original assessment subcommittee.

Upon receipt of a review request all relevant parties will be notified. The review subcommittee will complete its assessment of the allegation within 3 months of receiving the review request.

The review subcommittee has the same decision options as the assessment subcommittee.

### **Notification of subcommittee decisions**

A written notice of the decision of the subcommittee will be given to all the relevant parties within 7 working days of the decision being taken.

The written notice will clearly set out the reasons for the decision of the subcommittee.

## **Hearing Panel**

If the assessment subcommittee decide the complaint should be investigated an appropriate officer (investigator) will write an investigation report with one of the following findings:

- there has been a failure to comply with the Code of Conduct
- there has been no failure to comply with the Code of Conduct

The report must be sent to the subject member and referred to the Standards Committee. The Standards Committee will decide whether to accept the Investigator's Report and if necessary set up a hearing to consider the investigation report and decide what further action to take. The Committee will also appoint a Chairman and Vice Chairman of the hearing panel, who will both be independent members.

The hearing must be conducted within three months of the completion of the monitoring officer's report.

## **Pre-Hearing Process**

A prehearing process will take place prior to the hearing to allow the hearing to be dealt with more efficiently and fairly. The prehearing process will determine procedural issues only.

The prehearing process will:

- Identify whether the subject member disagrees with any findings of fact in the investigation report
- Identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- Identify whether evidence about those disagreements will need to be heard
- Decide whether any parts of the hearing need to be heard in private
- Decide whether any parts of the investigation report need to be withheld from the public as they contain exempt information

## **Format**

The prehearing process will be undertaken in writing but when necessary a meeting will be held subject to the agreement of the Standards Committee Chairman and all relevant parties.

## Subject Member Response

The subject member will be informed in writing of the date of the hearing and asked for a written response, within 7 days, relating to:

- Representation at the hearing – themselves, solicitor, or any other person
- Any disagreements with the findings of the investigation report
- Any witnesses or evidence to be called
- Any parts of the hearing which should be held in private
- If any parts of the report should be withheld from the public
- If they can attend the hearing

The monitoring officer or report author will be invited to comment on the subject member's response within 7 working days of receipt. Relevant parties will be asked to provide outlines or statements of any evidence their witnesses intend to give. Once all relevant parties have provided written responses new disagreements over the findings of the investigations may not be raised unless the Chairman of the Hearing Panel agrees, for example, if new evidence emerges.

Evidence presented to hearing members must be considered before the hearing to identify any potential conflicts of interest. If members of the Hearing Panel have any doubts as to the integrity of the Hearing they should raise with the Monitoring Officer as soon as possible. Standards Committee may invite witnesses they feel may assist in determining the case, this may include the complainant. The Standards Committee does not have the power to order witnesses to attend the hearing.

## Prehearing Summary

A pre-hearing summary will be sent to all relevant parties and the Standards Committee/Hearing Subcommittee, 14 days before the hearing, containing

- Date, time and location of the hearing
- A summary of the allegation
- An outline of the main facts of the case
- An outline of any facts which are not agreed by the relevant parties
- Attendees, for example, subject member or representatives and report author
- List of witnesses attending to give evidence

- Hearing procedure note

## **Hearing Procedure**

The hearing should be conducted in a fair, independent and politically impartial way.

If a hearing is established the report must be given to

- The subject member
- The clerk of any relevant parish or town council concerned
- The standards committee of any other relevant authority concerned

The hearing must be conducted at least 14 days after the report has been received by the subject member. It can be sooner if the subject member agrees

## **Membership**

The Hearing Panel will comprise of 5 members of the Standards Committee, the Chairman and Vice Chairman will be independent members. When a parish case is considered at least one of the members of the Panel will be a Parish Representative.

## **Subject Member Representatives**

The subject member may be represented by another person such as a solicitor. If it is a non-legal representative consent must be obtained by the Hearing Panel as part of the pre-hearing process. If the representative is disruptive during the hearing the Committee may withdraw this consent.

## **Subject Member Attendance**

The subject member does not have to be present for the hearing to be heard. In the event that the subject member is not able to attend the hearing, providing the committee are satisfied with the reasons given, the date of the hearing may be re-arranged.

## **Order of Business**

The Chairman will have been appointed by the Standards Committee.

The Chairman shall open the hearing and introduce each of the Members of the Hearing Panel, the subject member if present, the Investigator if present and any other officers present.

The Chairman will confirm all relevant parties have received the Hearing Panel Procedure Note and understand the process the Panel will follow.

If all or any part of the hearing is to be held in private the Chairman will explain the reasons for this and the Panel will exclude the public and press at the appropriate point in the meeting.

The Chairman will ask the Monitoring Officer, or a relevant officer, to present the prehearing report highlighting any points of disagreement of fact which have been identified by the subject member in the prehearing process.

The Chairman will then ask the subject member to confirm that this is an accurate summary of the issues and ask the subject member to identify any additional points of findings of fact that they disagree with in the investigator's report.

- If the subject member admits that they have failed to comply with the code of conduct in the manner described in the investigator's report the Hearing Panel may then make a determination that the Member has failed to comply with the Code of Conduct and proceed directly to consider whether action should be taken.
- The subject member will only be allowed to raise any additional points of difference over factual findings in the investigation report not identified in the pre-hearing process in exceptional circumstances. If the Hearing Panel are not satisfied with the subject member's reasons for failing to identify additional points in the prehearing process they may decide to continue the hearing without allowing the subject member to challenge those findings of fact. If the subject member gives valid reasons for not raising the additional points in the prehearing process the Panel may decide to adjourn the hearing to allow time to deal with those new points.

The Chairman will then ask the Investigator to present their report highlighting the conclusions on the basis of the findings of fact. The investigator may call witnesses as necessary to address any point.

Witnesses may be cross examined by the subject member or their representatives. Members of the panel will be given an opportunity to address relevant questions to the investigator's witnesses.

Any member of the Panel may address relevant questions to the investigator at this point.

The Chairman shall then invite the subject member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.

Witnesses may be cross examined by the investigator. Members of the panel will be given an opportunity to address relevant questions to the subject member's witnesses.

Any member of the Panel may address relevant questions to the subject member at this point.

The Panel can refuse to hear evidence from any parties if it is not relevant to determining whether there has been a failure to comply with the code of conduct.

At the conclusion of the subject members response the Chairman will confirm with all parties that they have had an opportunity to say everything they wish to say and confirm with the members of the panel that they have sufficient information to enable them to determine whether there has been any failure to comply with the Code of Conduct or not.

The Panel shall then retire to another room to consider in private their decision. The Panel shall decide if a breach of the code of conduct has taken place. If the panel finds that a subject member has failed to follow the code of conduct they may impose one or more of the sanctions identified in the Standards Board Local Standards Framework Guidance.

The panel shall make its decision based on the evidence received at the hearing, in deciding if any sanctions are to be made against a subject member the panel should ensure that the sanction is reasonable and proportionate to the subject member's behaviour.

In making its determination the panel may return to the main hearing room to clarify any points with any relevant parties. Representatives of legal and democratic services will advise members in private.

When the panel have reached a decision they will return to the main hearing room and the Chairman will announce the decision of the panel. The Chairman will then formally close the hearing.

### **Notice of the Decision**

A summary of the decision and reasons for it will be published in at least one local newspaper. Further detail on what the decision notice must contain is available in the Standards Board Local Standards Framework Guidance.

### **Appeals**

The subject member may apply in writing to the President of the Adjudication Panel for England for permission to appeal against the Hearing Panel's findings. Details of the appeal procedure can be obtained from the Adjudication Panel for England's website [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)

### **Interests**

In addition to code of conduct considerations members must not take part in the assessment process if:



- They are the complainant
- Closely associated with the complainant
- A potential victim or witness relating to the complaint
- They are the subject member

Officers may have an interest if they have previously advised the subject member or the complainant and cannot attend or support the investigation of the complaint

Members involved in the assessment and investigations of complaints should not discuss complaints with anyone outside the relevant subcommittee, any discussions should only take place within the formal meetings of the Standards Committee or subcommittees

### **Definitions**

Subject Member – the member the complaint refers to

Relevant parties – the complainant, subject member, standards committees of any other authorities concerned, any parish or town councils concerned and the Standards Board for England.

## **Roles and Appointments**

### **Chairman and Vice-Chairman of the Council**

The chairman and vice-chairman of the council will be elected by the council annually. The chairman (and in his absence, the vice-chairman) will have the following responsibilities:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution within meetings of the Council when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not *in* the Executive or do not hold Committee chairs are able to hold the Executive and Committee chairman to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council; and
- to attend such civic and ceremonial functions as the Council and he determines appropriate.

Neither the chairman nor vice-chairman of the council can be a member of the executive.

### **Leader of the Council**

The leader of the council will be a councillor elected to that position by the council. The leader of the council shall be the chairman of the executive and shall have reserve powers to act in the absence or incapacity of any executive portfolio holder.

The leader will hold office until:

- he resigns from the office; or
- he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he may resume office at the end of the period of suspension); or
- he is no longer a councillor;

he is removed from office by resolution of the council, save that this power may be exercised by the council only in the event of a change of political control of the council or a change in the leadership of the controlling political group notified to the chief executive in accordance with this constitution.

### **Deputy Leader of the Council**

The leader of the council may appoint a deputy leader of the council at the start of each council year (or at other times during the council year should that be

necessary) for the purpose of chairing meetings of the Executive in the absence of the Leader or in the absence of the Leader of the Council carrying out any duties and responsibilities given to the Leader of the Council by this constitution.

### **Executive Portfolio Holders**

Areas of responsibility, known as executive portfolios are determined by the council and are assigned by the leader to individual members of the executive whom he appoints. The leader may re-allocate functions between portfolio holders during the council year and shall advise all members of the council of the change as soon as practicable after any change has taken place.

Only councillors may be appointed to the executive. There may be no co-optees and no deputies or substitutes for executive members. Neither the chairman nor vice-chairman of the council may be appointed to the executive and members of the executive (including the leader of the council) may not be members of an overview and scrutiny committee.

Executive portfolio holders shall hold office until:

- they resign from office; or
- they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- they are no longer councillors; or
- they are removed from office by the leader of the council who must give written notice of any removal to the chief executive. The removal will take effect two working days after receipt of the notice by the chief executive.

### **Leaders of Political Groups**

Each political group represented on the council before the annual council meeting, and whenever changes occur, inform the chief executive in a notice of the names of the persons belonging to that political group, the name of the person chosen to serve as leader of the group, deputy leader of the group and group secretary during the ensuing year. All such notifications shall be reported to recorded in the minutes of the next meeting of council.

### **Leader of the Opposition**

The largest political group or groups not participating in the administration of the council through forming the executive shall be known as the opposition group and the leader of the group shall be known as the leader of the opposition.

### **Champions**

The council will from time to time appoint champions for various issues. The role and functions of champions will when reviewed by council be set out here.