

**COUNCIL PROCEDURE RULES**

**SECTION 1 – COUNCIL MEETINGS**

**1. ANNUAL MEETING OF THE COUNCIL**

**1.1 Timing and Business**

In a year when there is an ordinary election of councillors, the annual meeting will take place on the third Tuesday after the elections. In any other year, the annual meeting will take place in April or May. No business except that identified below in this Rule and Rule 1.2 will be included on the Agenda of the Annual Council meeting and all other Council Procedure Rules shall be construed accordingly.

The annual meeting will:

- (i) Receive a report from the Returning Officer on the return of Members elected (if it is the annual meeting immediately following the District Council Elections);
- (ii) Receive apologies for absence;
- (iii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;
- (iv) Receive any announcements from the retiring Chairman of the Council;
- (v) Elect the Chairman of the Council for the ensuing year;
- (vi) Elect the Vice-Chairman of the Council for the ensuing year;
- (vii) Receive any announcements from the Chairman and/or the Chief Executive;
- (viii) Receive notification of the memberships of political groups and the names of the Group Leaders and their Deputies (if it is the annual meeting immediately following the District Council Elections);
- (ix) Elect the Leader of the Council (if it is the annual meeting immediately following the District Council Elections);
- (x) Fix the allowances for the Chairman and Vice-Chairman and Members for the municipal year;
- (xi) Selection of Councillors on Committees etc. in accordance with Council Procedure Rule 1.2;
- (xii) Reaffirm the Council's Constitution;

- 
- (xiii) Approve a programme of ordinary meetings of the Council and Committees for the year;
  - (xiv) Approve the work programmes for the overview and scrutiny committees in accordance with Overview and Scrutiny Procedure Rule 7; and
  - (xv) Appoint up to four Members, with each Member being a Member Authority Representative to serve on/at the General Assembly of the Local Government Association. Two of the Members appointed will always be the Leader and Deputy Leader of the Council. Up to two further names can be put forward to Council by the Leader of the Council, following consultation with Group Leaders; and
- ~~(xiii)~~(xvi) Consider any other business set out in the notice convening the meeting.

## **1.2 Selection of Councillors on Committees**

At the annual meeting, the Council will:

- (i) Appoint the Committees and Sub-Committees it considers appropriate for the municipal year;
- (ii) Decide the size and the terms of reference and delegated powers for any new Committees and Sub-Committees;
- (iii) Decide the allocation of seats for all Committees and Sub-Committees to political groups in accordance with the political balance rules; and
- (iv) Appoint Members to each Committee and Sub-Committee and the Chairman and Vice-Chairman of each Committee and Sub-Committee as appropriate.

## **2. BUDGET AND COUNCIL TAX SETTING**

At the relevant ordinary meeting of the Council, when the Council's Budget and Council Tax is approved and set, no business except that identified below will be included on the Agenda of the Budget and Council Tax Setting Meeting and all other Council Procedure Rules shall be construed accordingly. The Budget and Council Tax Setting Meeting shall:

- (i) Receive apologies for absence;
- (ii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;
- (iii) Deal with any business required by Statute to be dealt with before any other business;
- (iv) Approve the minutes of the last meeting;
- (v) Receive any announcements from the Chairman and/or the Chief Executive and any Statements from the Leader of the Council and/or members of the Cabinet;

- 
- (vi) Approve and set the Council's Budget and Council Tax;
  - (vii) Deal with any business remaining from the last Council meeting; and
  - (viii) Consider any Urgent Matters for Debate

Matters which are not on the agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or the Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.

### **3. ORDINARY MEETING**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Such programmes shall ensure that the first ordinary meeting is held within 15 working days of the annual meeting of the Council except in a year when there is an ordinary election of Councillors. The order of business at every ordinary meeting of the Council be as follows:

- (i) To receive apologies for absence;
- (ii) To elect a person to preside if the Chairman and Vice Chairman are not present;
- (iii) To deal with any business required by Statute to be dealt with before any other business;
- (iv) To approve the minutes of the last meeting (or in the case of the first ordinary meeting of the municipal year, to approve the minutes of the Annual meeting and the preceding meeting);
- (v) To receive any announcements from the Chairman and the Chief Executive and any statements from the Leader and Members of the Cabinet;
- (vi) To deal with any Petitions;
- (vii) In accordance with Rule 10, to receive questions from, and provide answers to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (viii) To receive questions from Members in accordance with Rule 11.2;

- 
- (ix) To receive a report from the Leader on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and Overview and Scrutiny Procedure Rule 18(i);
  - (x) To deal with any business from the last Council meeting;
  - (xi) To receive the minutes of Committees (with the exception of the Licensing and Registration and Planning Committees) and to receive questions and answers from Councillors on any of those items;
  - (xii) To receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
  - (xiii) To consider motions (in the order in which notice has been received);
  - (xiv) To consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, other reports from the Cabinet, reports of the Overview and Scrutiny Committees, or other Committees for debate and reports from Officers for consideration; and
  - (xv) Urgent matters for Debate

Matters which are not on the Agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

With the exception of items (i) (ii) (iii) and (iv), the order of items may be varied at the discretion of the Chairman or by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be put without discussion. At the last ordinary meeting of the Council in the municipal year, following item (v) the meeting will receive the annual State of Tending Statement from the Leader.

#### **4. EXTRAORDINARY MEETINGS**

##### **4.1 Calling Extraordinary Meetings**

Those listed below may request the Chief Executive to call an Extraordinary Council meeting in addition to ordinary meetings, where such a request is received the meeting will be held within 14 days of the request.

- (i) The Chairman of the Council;

- 
- (ii) The Council by resolution;
  - (iii) The Monitoring Officer in circumstances where a Section 5 report is to be presented; and
  - (iv) Any five members of the Council if they have signed a requisition to the Chairman of the Council and he has refused to request a meeting or has failed to call a meeting to be held within seven clear working days of the requisition.

#### **4.2 Order of Business**

- (i) To receive apologies for absence;
- (ii) To elect a person to preside if the Chairman and Vice-Chairman are not present;
- (iii) To deal with any business required by Statute to be dealt with before any other business;
- (iv) To consider any other business specified in the summons to the meeting.

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

The time and place of Council meetings will be notified in the summons.

Meetings will normally be held at 7.30 p.m. in the Princes Theatre, Town Hall, Clacton-on-Sea and the Council may, from time to time, vary the place, date or hour of a meeting or meetings. Where it is not practicable for the Council to meet to agree a variation, such variation shall be determined by the Chairman (or failing him the Vice-Chairman) of the Council.

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

The Committee Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. **In addition to sending an electronic notification,** At **at** least five clear days before a meeting, the Committee Services Manager will send a summons by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **7. CHAIRING OF MEETINGS**

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

#### **8. QUORUM**

---

The quorum of a meeting will be one quarter of the whole number of Members, subject always to a minimum of three Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date to be fixed by the Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. DURATION OF MEETING**

- 9.1** The business of ordinary meetings of the Council shall cease at ~~10.00 p.m.~~ **10.30 p.m.** on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate.
- 9.2** When the business of a meeting is terminated in accordance with 9.1 above any remaining business shall stand adjourned until a date and time to be fixed by the Chairman.
- 9.3** Where 9.2 applies, given that the agenda and associated reports and papers for the original meeting have been published, the adjourned meeting can be called as soon as practicable and without necessary delay, having regard to the remaining business and venue availability. In the case of Committees and Sub-Committees, where Substitutes have been appointed the same Members should attend (the Substituted Members must not take their seats).
- 9.4** Notice of the adjourned meeting will be published on the Council's website, unless the adjourned meeting is held within 24 hours.

## **10. QUESTIONS BY THE PUBLIC**

### **10.1 ~~General~~ **Scope of Questions and Time Allocated in the Meeting****

Members of the public may ask questions of **the relevant** Members of the Cabinet or the Leader or Committee Chairmen ~~at ordinary meetings of the Council~~ **on any matter in relation to which the Council has powers or duties or which affects the Tendring District.** The time limit for the asking of each question is two minutes and for the reply, five minutes. The Chairman shall determine the number of questions to be tabled at a particular meeting in order to limit the time for questions and answers to ~~half an hour~~ **21 minutes.**

**Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.**

### **10.2 Order of Questions**

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

### **10.3 Notice of Questions**

---

A question may only be asked if notice has been given by delivering it in writing or by personal e-mail to the Committee Services Manager no later than midday 8 working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

#### **10.4 Number of Questions**

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

#### **10.5 ~~Scope of~~ Reasons for Rejection of Questions**

The Committee Services Manager and/or Monitoring Officer may reject a question if in their judgement it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the District;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (e) requires the disclosure of confidential or exempt information; or
- (f) **the question is about a matter that is subject to call in or ongoing legal proceedings**

#### **10.6 Record of Questions**

The Committee Services Manager will keep a copy of each question for six years after the meeting at which the question was put and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

#### **10.7 Asking the Question at the Meeting**

All questions will be set out in the agenda and the Chairman will invite the questioner to put the question to the Member named in the notice. There will be no further questions or debate. If the questioner is not present, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **10.8 Written Answers**

Any question that cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member, to whom it was to be put, will be dealt with by a written answer, with a copy circulated to all Members.

#### **10.9 Reference of Question to the Cabinet or a Committee**

---

No discussion will take place on any question, but any Member may formally, without discussion, move that a matter raised by a question be referred to the Cabinet or the appropriate Committee ~~or Sub-Committee~~. Once seconded, such a motion will be voted on without discussion.

#### **10.10 Withdrawal of Question**

A member of the public may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

### **11. QUESTIONS BY MEMBERS**

#### **11.1 On Statements made by the Leader or a Member of the Cabinet to the Council, Reports or References from the Cabinet or Minutes of Committees**

A Member of the Council may ask the Leader or a Member of the Cabinet any question without notice about any statement made by the Leader or a Member of the Cabinet to the Council when that item is being received.

A Member of the Council may ask the Leader or a Member of the Cabinet or the Chairman of a Committee any question without notice upon a report or recommendation of the Cabinet or the minutes or reference from a Committee when that item is being received by the Council.

Supplementary Questions will not be permitted under this rule.

#### **11.2 **Scope of Questions on Notice at Full Council and Time Allocated in the Meeting****

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask ~~at an ordinary meeting of the Council:-~~

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee ~~or Sub-Committee~~;

a question on any matter, **which is within their area of responsibilities as set out in Part 3 of the Constitution**, in relation to which the Council has powers or duties or which affects the Tendring District.

**Questions from Members will be set out in the agenda in the order in which they were received.**

The time allocated for receiving and disposing of questions shall be a maximum ~~45~~ **30** minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members **the following working day** unless withdrawn by the questioner.



---

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council **or to the Budget and Council Tax setting meeting of the Council.**

### 11.3 Notice of Questions

A Member may only ask a question under Rule 11.2 if either:

- (a) notice has been given by delivering it in writing (or by personal e-mail) to the Committee Services Manager no later than midday 8 (eight) working days before the day of the meeting; or
- (b) the question relates to urgent matters, he has the consent of the person to whom the question is to be put and the content of the question is given to the Committee Services Manager by noon on the day of the meeting.

### 11.4 Number of Questions

At any one meeting no Councillor may submit more than two questions.

### 11.5 **Reasons for rejection** Scope of Questions

- (a) **the question is not about a matter for which the local authority has a responsibility or which affects the District;**
- (b) the Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information **(as defined in the Access to Information Procedure Rules);**
- (c) the Monitoring Officer will reject a question if in their judgement it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) the Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) the Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conduct; or
- (f) **the question is about a matter that is subject to call in or ongoing legal proceedings**

### 11.6 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- 
- (c) where a reply cannot conveniently be given orally, a written answer given later to all Members.

The Member giving the response must provide an electronic or written copy of that response to the Committee Services Manager by 10.00 a.m. on the day of the meeting in order to enable the response to be circulated to the Questioner, the Chairman of the Council, the Leader of the Council and relevant Officers.

### **11.7 Supplementary Questions**

After the response has been given to a Question on Notice, the Member who asked the question may ask one supplementary question, of which no notice is required. The supplementary question must solely relate to ~~the original question and/or~~ clarifying the response received. **No statements will be allowed.** The ruling of the Chairman on the admissibility of the supplementary question is final.

The minutes of the meeting will record that a supplementary question and response was asked and given, without detailing the content.

### **11.8 Time Available Limits for Asking/Answering Questions**

~~Questions from Members will be set out in the agenda in the order in which they were received.~~ The time limit for asking each question is two minutes and the time limit for each reply is ~~five~~ three minutes.

### **11.9 Withdrawal of Question**

A Member may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

## **12. MOTIONS ON NOTICE**

### **12.1 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Tendring District.

### **12.2 Notices of Motion**

Except for motions which can be moved without notice under Rule 13, written and signed notice (or notice by personal e-mail) of every motion by the Member or Members submitting it, must be delivered to the Committee Services Manager no later than midday eight working days before the day of the meeting. **The Monitoring Officer and/or the Committee Services Manager will decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14.**

---

No Member shall, under the provisions of this Rule, submit more than one motion for consideration at any ordinary meeting of the Council. ~~Motions shall not be submitted to the annual meeting of the Council or to an extraordinary meeting of the Council or to the Budget and Council Tax setting meeting of the Council.~~

A maximum of three motions shall be accepted for inclusion in an agenda for an Ordinary Meeting of the Council under this Procedure Rule. Motions shall not be submitted to the annual meeting of the Council or to an Extraordinary meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

### **12.3 Motion Set out in Agenda**

Valid ~~M~~otions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that he proposes to move it to a later meeting or withdraw it.

At the meeting the Chairman will invite the Member who submitted the motion to formally move it. Thereupon the Chairman will then ask for a seconder for the motion. If there is no seconder then the motion will be declared by the Chairman as having failed and the Chairman will immediately move on to the next business on the agenda.

If the motion is seconded then it will be dealt with in accordance with Rule 12.4 (within the maximum 30 minute time limit allocated for each motion).

If a motion thus set out in the agenda is not moved either by a Member who gave notice thereof or by a Member nominated by him ~~of the same political group~~ it shall unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

### ~~12.3 Scope~~

~~Motions must be about matters for which the Council has a responsibility or which affect the Tendring District.~~

### **12.4 Consideration of Motion**

The mover and seconder of the motion will be permitted to explain the purpose of the motion and, if they so wish, give reasons why they feel it would be appropriate for the motion to be dealt with at the meeting. They will each have a maximum of three minutes to do so.

The Leader of the Council or the relevant Portfolio Holder or the relevant Chairman of a Committee will then be permitted to respond and they will either agree with the motion being dealt with at the meeting or they will put forward reasons why it would be more appropriate for the motion to stand referred to the appropriate body for further consideration. They will have a maximum of three minutes to do so.

---

After hearing the representations referred to above together with any necessary professional advice from the Chief Executive and/or the Monitoring Officer and/or the Section 151 Officer, the Chairman will then make a ruling on whether the motion should be dealt with at the meeting or stand referred to the appropriate body.

In making their ruling the Chairman must have regard to the principles of decision making set out in Article 13.02 of the Council's Constitution and the provisions of the Executive Function Regulations. The Chairman must also provide to the meeting a short oral explanation of the reasons for their decision.

If the Chairman decides to refer the motion to the appropriate body then the provisions of Rule 12.5 will apply.

If the Chairman decides to allow the motion to be dealt with at the meeting, then in considering the motion the provisions, as applicable, of Rules 16, 19, 23, 24, 25, 28 and 29 will apply.

All speakers on the motion will be allowed three minutes.

A maximum of 30 minutes for debate will be allowed for each motion dealt with at the meeting.

## **12.5 Referral of Motions**

~~The Chairman may, if the mover has provided reasons with the motion, consider it convenient and conducive to the despatch of business, and allow the motion to be dealt with at the meeting at which it is brought forward or refer it.~~

~~If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet or any Committee(s) it shall, upon being formally moved and seconded, stand referred without speeches or discussion to the Cabinet or relevant Committee(s) as the Chairman may determine, for consideration and report.~~

~~Where a motion is to be referred then notwithstanding the provisions of Council Procedure Rule 16.1 the mover shall explain the motion to the Cabinet or relevant Committee and not at the meeting of the Council at which it is moved.~~

Where a motion has been referred in accordance with Rule 12.4 ~~‡~~ the Cabinet or any relevant Committee shall (subject to the provisions of Rule 12.6) be required to consider such motion and to advise the Council (by no later than the second Ordinary Meeting of the Council held following the date of Council's referral) of the Cabinet's or relevant Committee's ~~their~~ opinion and reason as to whether such motion should be supported in its original format.

Prior to making its decision Cabinet or the relevant Committee may following consultation with Officers, require further information to be presented to them for consideration on the implications of the proposed motion. Such a report must be considered in a timely manner.

---

If the Cabinet or relevant Committee decides to advise the Council of its opinion that such motion in its original format **should not** be supported, the Cabinet or relevant Committee may, in addition, suggest to the Council that an amended motion be proposed.

Once Cabinet or any relevant Committee has considered the motion it will be referred back to Council with the recommendation. If an amended motion is proposed by Cabinet, or relevant Committee, when presented back to Council, the amended motion will be debated first, in accordance with Rule 16.5 **and Rule 16.10 (b)**.

## **12.6 Referred Motions – Right of Mover to Attend Meeting**

If a motion has, in accordance with the provisions of Rule 12.4, been formally ~~moved and seconded~~ and referred to the Cabinet or relevant Committee(s), the mover (or some other Member on ~~his~~ **their** behalf) shall attend the first practicable meeting of the Cabinet or relevant Committee(s) immediately following the Council meeting at which the motion was moved **to answer any questions and/or points of clarification, if requested**. ~~The motion shall not be considered unless, and until, the mover (or other Member) has explained it and, if they do not attend the meeting, the motion shall be treated as withdrawn, unless the Cabinet or relevant Committee(s) at their sole discretion permit the mover (or other Member) to attend a subsequent meeting.~~

## **13. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) To appoint a Chairman of the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer something to, or back to, **Cabinet an appropriate body, individual** or relevant Committee;
- (e) ~~To appoint a Committee or Member arising from an item on the summons for the meeting;~~
- (f) To receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) To withdraw a motion;
- (h) To amend a motion;
- (i) To proceed to the next business;
- (j) That the question be now put;

- 
- (k) To adjourn a debate;
  - (l) To adjourn a meeting;
  - (m) To exclude the public and press in accordance with the Access to Information Procedure Rules;
  - (n) That a Member named under Rule 23.3 Disorderly Conduct not to be heard further or to exclude them from the meeting under Rule 23.4;
  - (o) To give the consent of the Council where its consent is required by this Constitution;
  - (p) To extend the time limit for a speech; and
  - (q) In the case of urgency, notice of motion may be given, in writing, signed by the Member, or Members, giving the notice and the reason for its urgency and delivered by noon on the morning of the day of the meeting at the office of the Chief Executive who will immediately advise the Chairman of its receipt. If in the opinion of the Chairman, the matter is not urgent, the Chairman may direct that it be disallowed.

#### 14. **MOTIONS NOT PERMITTED**

No motion shall be submitted on a matter that relates to an item which;

- (a) is not about a matter for which the local authority has a responsibility or which affects the District;
- ~~(a)~~(b) is to be considered on the same Council agenda;
- ~~(b)~~(c) is substantially the same as a motion already received to be put to the ordinary meeting of the Council in question;
- ~~(c)~~(d) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- ~~(d)~~(e) has been the subject of a Key Decision in the previous six months;
- ~~(e)~~(f) is included within the work programme of an Overview and Scrutiny Committee;
- ~~(f)~~(g) is, at the time of submission, subject to call-in or on-going legal proceedings or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (h) the Monitoring Officer will reject a motion if in their judgement it is likely to lead to a breach of the Members' Code of Conduct.

#### 15. **MOTIONS OR QUESTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

---

(Yellow)

(July 2016) Part 4.20

---

If any question arises at a meeting of the Council or of a Committee or Sub-Committee as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, Committee or Sub-Committee has decided whether or not the power of exclusion of the public shall be exercised.

## **16. RULES OF DEBATE**

### **16.1 No Speeches until Motion Seconded**

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or the minutes or references from the relevant Committee shall be adopted need not be seconded.

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of debate, subject to Rule 16.10 – Closure Motions.

### **16.2 Right to Require Motion or Amendment in Writing**

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

### **16.3 Content and Length of Speeches**

Speeches must be directed to the motion under discussion or to a personal explanation or point of procedure. No speech (including those to move motions) shall exceed three minutes except with the consent of the Council. This does not apply to other than the statement by the Leader on the State of the District and the Leader's presentation of the budget. ~~may exceed five minutes except with the consent of the Council.~~

### **16.4 When a Member May Speak Again**

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move or second a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (provided the amendment has not been carried);
- (d) in exercise of a right of reply;
- (e) on a point of procedure; and/or

- 
- (f) by way of personal explanation.

## 16.5 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and either be:
- (i) to refer the matter to ~~an appropriate body, individual~~ **the Cabinet** or relevant Committee for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words

as long **as** the effect of ~~(ii) to (iv)~~ **(ii), (iii) or (iv)** is not to negate the motion **or introduce a new subject matter into the motion before the Council.**

- (b) **Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.**
- ~~(b)~~(c) Only one amendment may be moved and discussed at any one time. **Subject to Rule 16.10** no further amendment may be moved until the amendment under discussion has been disposed of. However the Chairman may permit a Member to give formal notice of the terms of any further amendment which he proposes to move at a later stage in the proceedings.
- (d) **A Member may withdraw their proposed amendment with the consent of the seconder.**
- (e) If an amendment is not carried, other amendments to the original motion may be moved.
- (f) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (g) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, put it to the vote.

## 16.6 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the **seconder** meeting. ~~Consent will be signified without discussion.~~



- 
- (b) A Member may alter a motion that he has moved without notice with the consent of ~~both the meeting and the seconder. Consent will be signified without discussion.~~
  - (c) Only alterations that could be made as an amendment may be made.

### **16.7 Withdrawal of Motion**

A Member may withdraw a motion that he has moved with the consent of ~~both the meeting and the seconder~~ **unless it is the subject of an amendment.** ~~Consent will be signified without discussion.~~ No Member may speak on the motion after the mover has asked ~~permission to withdraw~~ **it unless permission is refused.**

### **16.8 Right of Reply**

- (a) The mover of a motion (including the mover of a motion on which an amendment has been moved) and the mover of an amendment have a right of reply at the end of the debate on the motion or amendment. Following this, the appropriate Portfolio Holder or the Chairman of the relevant Committee shall have the right to speak on the motion or amendment immediately before it is put to the vote. Where the mover of the motion or amendment was the Leader of the Council, he shall have the final right to speak.
- (b) A Member exercising a right of reply shall confine his remarks to answering the arguments employed or observations made during the debate and shall not introduce any new matter.

### **16.9 Motions Which May be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the time for speeches;
- (h) to give any consent required by these procedure rules;
- (i) to suspend one or more of the procedure rules;

- 
- (j) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
  - (k) that a Member named under Rule 23.3 below (Disorderly Conduct), not to be heard further or to exclude them from the meeting under Rule 23.4.

### 16.10 Closure Motion

- (a) A Member may move, without comment, the following motions at the conclusion of a speech of another Member:
  - (i) That the Council proceed to the next business;
  - (ii) That the question now be put;
  - (iii) That the debate now be adjourned; or
  - (iv) That the Council does now adjourn; or
  - (v) That the matter be referred to the Cabinet or a Committee(s) in accordance with the responsibility of functions and the defined terms of reference.
- (b) On the seconding of which the Chairman shall, unless in their opinion the matter before the meeting has been insufficiently discussed, proceed as follows:
  - (i) On a motion to proceed to the next business or to refer the matter to the Cabinet or a Committee(s): they shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business or to refer the matter;
  - (ii) On a motion that the question now be put: they shall put to the vote the motion that the question now be put, and if it is passed then give the mover of the original motion their right of reply under Rule 16.8 above before putting their motion to the vote;
  - (iii) On a motion to adjourn the debate or the meeting: they shall put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion.
- (c) ~~A motion will be considered closed if, at the meeting of Cabinet or relevant Committee to which the motion was referred, it is agreed to support a motion in its original format, subject to the mover agreeing that referral back is not required. This prevents any unnecessary delay.~~

### 16.11 Point of Procedure

A Member may raise a point of procedure at any time. The Chairman will hear him immediately. A point of procedure may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

---

## **16.12 Personal Explanation**

A Member has the right to make a personal explanation when directly related to some material part of an earlier speech by the Member if it appears to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

## **17. STATE OF TENDRING STATEMENT**

At the last ordinary meeting before the Annual Council meeting each year, the Leader will make a Statement on the State of the Tendring District. ~~The Chairman may permit debate following the statement.~~

## **18. PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 Members.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

This procedure rule does not apply to motions moved to adopt a recommendation to the Council from the Cabinet or a Committee.

## **19. VOTING**

### **19.1 Majority**

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

### **19.2 Chairman's Casting Vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how or whether the Chairman chooses to exercise a casting vote. In the case of an equality of votes for the election of the Chairman of the Council, the retiring Chairman or the person presiding at the meeting must exercise a casting vote.

### **19.3 Show of Hands**

Unless a recorded vote is demanded under Rule 19.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

---

#### **19.4 Recorded Vote**

If 11 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A recorded vote is mandatory on any decision relating to the budget or Council Tax. This includes not only the substantive budget motions agreeing the budget and setting Council taxes, but also on any amendments proposed at the meeting.

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

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

#### **19.6 Voting on Appointments**

Where there is more than one person nominated and seconded for any position to be filled by the Council then unless the Council decides otherwise at the time, the person receiving most votes shall be appointed. Where there is only one person nominated and seconded, Members will cast their votes either for or against that person. The person nominated will be appointed if the votes for are more than the votes against.

### **20. MINUTES**

#### **20.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable ordinary meeting. The Chairman will move that the minutes of any previous meeting be signed as a correct record. The only issue in relation to the minutes that can be discussed is their accuracy.

#### **20.2 Form of Minutes**

Minutes of any Council, Committee or Sub-Committee meeting shall comprise a brief summary of the proceedings of, and business transacted at, the meeting. Minutes will not record details of the debate or the views or comments of individual Members.

Minutes will contain all motions and amendments in the exact form and order the Chairman accepted them as being proper motions/amendments and put them to the vote.

### **21. RECORD OF ATTENDANCE**

All Members present during the whole, or part, of any meeting must sign their names on the attendance sheets before the end of that meeting to assist with the record of attendance.

### **22. EXCLUSION OF PUBLIC**

---

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

## **23. MEMBERS' CONDUCT**

### **23.1 Standing to Speak**

When a Member speaks at full Council he must stand (if possible) and address the meeting through the Chairman. If more than one Member stand, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of procedure or a point of personal explanation.

### **23.2 Chairman Standing**

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

### **23.3 Member Not to be Heard Further**

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

### **23.4 Member to Leave the Meeting**

If the Member continues to behave improperly after a motion in Rule 23.3 is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **23.5 General Disturbance**

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

## **24. DISTURBANCE BY PUBLIC**

### **24.1 Removal of a Member of the Public**

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

### **24.2 Clearance of Part of Meeting Room**

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

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

---

## **25.1 Suspension**

All of these Council Procedure Rules except Rules 19.5 and 20.1 may be suspended by motion on notice, or without notice, if at least 45 Members of the Council are present and 31 Members vote in favour of suspension. Suspension can only be for the duration of the meeting.

## **25.2 Amendment**

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

## **26. RESIGNATION OF CHAIRMANSHIP ETC**

The Chairman or Vice-Chairman of the Council may at any time, by notice in writing delivered to the Chief Executive, resign their position and such resignation shall take immediate effect on delivery of the notice.

## **27. CASUAL VACANCIES ETC**

On a casual vacancy occurring in the office of Chairman or Vice-Chairman of the Council an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next ordinary meeting of the Council, and shall be conducted in the same manner as an ordinary election.

## **28. STATUTORY OFFICERS' ADVICE**

The Chief Executive, Monitoring Officer and Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to the Chairman and, if requested, to all Councillors present.

## **29. INTERPRETATION OF PROCEDURE RULES**

At any meeting the ruling of the Chairman as to the construction or application of any of the Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged.

Any advice provided by the Statutory Officers in assisting the Chair for the application of the Rules can be shared with all Councillors.

## **30. PETITIONS**

Petitions will be dealt with in accordance with the scheme approved by Council, contained within Part 5 of the Constitution.

The rules of debate will be in accordance with the Council Procedure Rules.

---

The length of speeches by presenters of petitions shall not exceed five minutes.

**31. MINOR AMENDMENTS OF GUIDANCE**

Any minor amendment of these rules as a consequence of any written advice or guidance to Officers and Members is delegated to the Monitoring Officer.

**32. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

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

None of these rules apply to meetings of the Cabinet.

Rules 6-9, 11.3-11.5, 11.7 – 11.9, 16 (excluding 16.4), 19 (excluding 19.4 and 19.6), 20 – 24 (excluding 23.1 ~~and 23.2~~), 26, 28, 29 and 31 including those in Part 2 below apply with any necessary modification to meetings of Committees and Sub-Committees. Rule ~~39~~ 40 applies only to the Local Plan Committee and the Planning Committee.