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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 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 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) Selection of Councillors on Committees etc. in accordance with Council Procedure Rule 1.2;
- (xi) Reaffirm the Council's Constitution;
- (xii) Approve a programme of ordinary meetings of the Council and Committees for the year;

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~~(xiii) Approve the work programmes for the overview and scrutiny committees in accordance with Overview and Scrutiny Procedure Rule 7; and~~

(xiii) 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

(xiv) 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.

1A. NO REQUIREMENT TO HOLD AN ANNUAL MEETING OF THE COUNCIL

~~The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of the Council may only take place:~~

~~(a) where called by the Chairman; or~~

~~(b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.~~

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:

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- (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. The text and form of any and all such amendments must be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting.

In addition, the text of the Leader of the Council's budget presentation speech must also be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Committee Services Manager will also email the speech to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

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

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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 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);
- (ix) To deal with any business from the last Council meeting;
- ~~(x) 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;~~
- (xi) To receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xii) To consider motions (in the order in which notice has been received);
- (xiii) 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;
- ~~(xiiiiv)~~ To receive questions from Members in accordance with Rule 11.2; and
- (xiv) 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

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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

An extraordinary meeting of the Council may be called in the following circumstances:-

1. An extraordinary meeting of the Council may be called at any time by the Chairman of the Council.
2. If the Chairman refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him, or if, without so refusing, the Chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any five members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Council.
3. The Council by resolution; and
4. The Monitoring Officer in circumstances where a Section 5 report is to be presented.

4.2 Holding Extraordinary Meetings in the corresponding circumstances set out above

1. The Chairman of the Council, in consultation with the Chief Executive, will decide the date of the meeting.
2. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from those five members of the Council.
3. The Council as part of its resolution will fix the date of the extraordinary meeting or will delegate that matter to the Chairman of the Council.

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4. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from the Monitoring Officer.

4.3 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. ~~Such variation will include holding the meeting or meetings by remote means in order to comply with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.~~ 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.

In accordance with the approved Protocol for such matters, the Council will make an audio and/or audio-visual live stream and recording of meetings of the Full Council, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

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 least five clear days before a meeting, the Committee Services Manager will send summons by post to every member of the Council or leave it at their usual place of residence.

Although this is the default position, all members of the Council are encouraged to opt out of receiving paper copies and elect to solely receive the summons via electronic notification at least five clear working days before the meeting. 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.

~~6A. ACCESS TO INFORMATION~~

~~For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:~~

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- ~~(a) — “open to inspection” shall include for these and all other purposes as being published on the website of the Council; and~~
- ~~(b) — to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.~~

6B. REMOTE ACCESS TO MEETINGS

- ~~(a) — For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:~~
- ~~(i) — “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call phone numbers; and~~
- ~~(ii) — “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and~~
- ~~(b) — If the Chairman is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chairman shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chairman. If he or she~~
- ~~does not fix a date, the remaining business will be considered at the next ordinary meeting.~~

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.

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8A. MEMBERS IN REMOTE MEETINGS

- ~~(a) — A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:~~
- ~~(i) — to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance;~~
 - ~~(ii) — to hear, and where practicable see, and be so heard and, where practicable, be seen by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and~~
 - ~~(iii) — to be so heard, and where practicable, be seen by any other members of the public attending the meeting.~~
- ~~(b) — A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstances the Chairman may, as they deem appropriate;~~
- ~~(i) — adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;~~
 - ~~(ii) — count the number of Members in attendance for the purposes of the quorum; or~~
 - ~~(iii) — continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.~~

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9. DURATION OF MEETING

- 9.1** The business of ordinary meetings of the Council shall cease at 10.30 p.m. (or after a duration of three hours, whichever is the earliest) on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond 10.30 p.m. (or beyond three hours) they will be expected to give an indication of the length of that extension and secure the consent of the Council in doing so.
- 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 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 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 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

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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 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;
- (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. Once seconded, such a motion will be voted on without discussion.

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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.

~~10A. REMOTE ATTENDANCE BY MEMBERS OF THE PUBLIC~~

~~(a) — A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:~~

~~(i) — to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;~~

~~(ii) — to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and~~

~~(iii) — to be so heard, and where practicable, be seen by any other members of the public attending the meeting.~~

~~(b) — A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Rule 10A(a) above are not met. In such circumstances the Chairman may, as he or she deems appropriate:~~

~~(i) — adjourn the meeting for a short period to permit the conditions for remote attendance contained in Rule 10A(a) above to be re-established;~~

~~(ii) — suspend consideration of the item of business in relation to a member of the public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the members of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or~~

~~(iii) — continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.~~

~~For the avoidance of any doubt this Rule also applies, with any necessary modifications to any scheme for public participation in respect of planning, licensing and other committees and/or sub-committees.~~

11. QUESTIONS BY MEMBERS

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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:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any 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 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

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

11.5 Reasons for rejection of Questions

- (a) the question is not about a matter for which the local authority has 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 judgment 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 Conductor; 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 Noon 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 Questions of Clarification

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

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

11.8 Time Limits for Asking/Answering Questions

The time limit for asking each question is two minutes and the time limit for each reply is 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.

A maximum of two 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 the Budget and Council Tax setting meeting of the Council.

12.3 Motion set out in Agenda

Valid motions 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 onto the next business on the agenda.

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If the motion is seconded then it will be dealt with in accordance with Rule 12.4 (within the maximum 30 minute time limit normally allocated for each motion, which will only commence at the point the Chairman has decided to allow the motion to be dealt with at the meeting and they then call on the first Member to speak to the motion if it is a motion being considered at an ordinary meeting of the Council).

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 it shall unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

12.4 Consideration of Motions

12.4.1 At an Extraordinary Meeting of the Council any Motion listed on the Agenda will be dealt with at the meeting in accordance with the provisions, as applicable, of Rules 16, 19, 23, 24, 25, 28 and 29.

12.4.2 At an ordinary meeting of the Council 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.

Regardless of whether the Chairman has decided to allow the motion to be dealt with at the meeting or they have decided to refer the motion to the appropriate body, the mover and

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seconded of the motion will, at this point in the proceedings, explain the purpose of the motion. They will each have a maximum of three minutes to do so.

A maximum of 30 minutes for debate will normally be allowed for each motion the Chairman has decided they will allow to be dealt with at the meeting. That 30 minute time period will then commence at this point when the Chairman calls on the first Member to speak to the motion. Following the expiry of that 30 minute period the Mover of the Motion, the mover of an amendment and the Leader/relevant Portfolio Holder/relevant Committee Chairman shall have a right of reply in accordance with the provisions of Council Procedure Rule 16.8.

All speakers on the motion will be allowed three minutes.

If a valid amendment to the motion is accepted by the Chairman a separate 30 minute period will then normally be allowed to debate the amendment. Following the expiry of that 30 minute period the Mover of the Motion, the mover of an amendment and the Leader/relevant Portfolio Holder/relevant Committee Chairman shall have a right of reply in accordance with the provisions of Council Procedure Rule 16.8.

All speakers on the amendment will be allowed three minutes.

12.5 Referral of Motions

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 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 referred to the Cabinet or relevant Committee(s), the mover (or some other Member on their behalf) shall attend the first practicable meeting of the Cabinet or relevant Committee(s) immediately

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following the Council meeting at which the motion was moved to answer any questions and/or points of clarification, if requested.

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 or relevant Committee;
- (e) To receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (f) To withdraw a motion;
- (g) To amend a motion;
- (h) To proceed to the next business;
- (i) That the question be now put;
- (j) To adjourn a debate;
- (k) To adjourn a meeting;
- (l) To exclude the public and press in accordance with the Access to Information Procedure Rules;
- (m) 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;
- (n) To give the consent of the Council where its consent is required by this Constitution;
- (o) To extend the time limit for a speech; and
- (p) 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;

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- (a) is not about a matter for which the local authority has a responsibility or which affects the District;
- (b) is to be considered on the same Council agenda;
- (c) is substantially the same as a motion already received to be put to the ordinary meeting of the Council in question;
- (d) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- (e) has been the subject of a Key Decision in the previous six months;
- (f) is included within the work programme of an Overview and Scrutiny Committee;
- (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 judgment it is likely to lead to a breach of the Members' Code of Conduct.

15. MOTIONS OR QUESTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

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

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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 the statement by the Leader on the State of the District and the Leader's presentation of the budget.

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 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

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(iv) to insert or add words

as long as the effect of (ii), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council. **In addition, any amendment proposed to be made that may have budgetary implications must have been submitted to the Council's Section 151 Officer at least two working days before the Full Council meeting to enable them to consider the implications for the Council's finances.**

Furthermore, no amendment will be accepted that could bind or fetter the Executive or a Committee in relation to matters that are within the responsibility of the Executive or a Committee of 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.
- (c) Any Member wishing to move an amendment or alternative recommendation to those made by the Independent Remuneration Panel in respect of the Members' Scheme of Allowances must have submitted their proposals to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications. Any such amendment or alternative recommendation must be accompanied by the reasons for departing from the IRP's recommendations. Once deemed to be valid by the Monitoring Officer it will be immediately circulated by email to all Members of the Council. Copies of such amendment or alternative recommendation(s) will also be placed on Members' tables prior to the commencement of the Council meeting.
- (d) 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.
- (e) A member may withdraw their proposed amendment with the consent of the seconder.
- (f) If an amendment is not carried, other amendments to the original motion may be moved.
- (g) 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.
- (h) 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

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- (a) A Member may alter a motion of which he has given notice with the consent of the seconder.
 - (b) A Member may alter a motion that he has moved without notice with the consent of the seconder.
 - (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 the seconder unless it is the subject of an amendment. No Member may speak on the motion after the mover has withdrawn it.

16.8 Right of Reply

- (a) The **seconder of a motion (including the seconder of a motion on which an amendment has been moved), the mover of a motion (including the mover of a motion on which an amendment has been moved) and the seconder 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.

(c) The right of reply of the seconder of a motion or amendment (as referenced in (a) above) will only apply if the seconder has not already spoken during the debate of the motion or amendment in question.

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;

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- (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 **seconder and the** mover of the original motion **a their** right of reply **under Rule 16.8 above**, 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 **the Chairman will** give the **seconder and 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 **seconder and the** mover of the original motion their right of reply on that occasion.

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.

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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.

In addition, the text of the Leader of the Council's Statement on the State of the Tendring District must be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the relevant Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Committee Services Manager will also email the statement to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

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.

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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 9 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.

~~19A. REMOTE VOTING~~

~~Unless a recorded vote is demanded, (which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chairman), the Chairman will take the vote:~~

- ~~(a) — by use of the electronic voting system[s] for Remote Voting and voting in the Chamber or where an electronic voting system is not working correctly or unavailable;~~
- ~~(b) — by the affirmation of the meeting if there is no dissent (by assent); or~~
- ~~(c) — the Chairman will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.~~

~~If a connection to a Member is lost during a regulatory meeting (e.g. a meeting relating to planning, licensing or code of conduct matters), the Chairman will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, but the Member who was disconnected (should they subsequently be re-connected) will not be able to vote on the matter under discussion as they would not have heard all of the facts.~~

20. MINUTES

20.1 Signing the Minutes

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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.

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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.

~~23A MEMBERS EXCLUDED FROM THE MEETING~~

~~Where a Member is required to leave the meeting, such as by reason of a Disclosable Pecuniary Interest or as a result of Rule 23.4 the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business in which the Member or co-opted member may not participate.~~

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 36 Members of the Council are present and 25 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

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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 three 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, (~~including 6A, 6B and 8A~~), ~~10A~~, 11.3-11.5, 11.7 – 11.9, 16 (excluding 16.4), 19 (excluding 19.4 and 19.6 ~~but including 19A~~), 20 – 24 (excluding 23.1 ~~but including 23A~~), 26, 28, 29 and 31 including those in Part 2 below apply with any necessary modification to meetings of Committees and Sub-Committees. Rule 40 applies only to the Planning Policy & Local Plan Committee and the Planning Committee.

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COUNCIL PROCEDURE RULES

PART 2 – COMMITTEE MEETINGS

33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

33.1 General

Subject to the rules of political proportionality, as provided in the Local Government and Housing Act 1985 (Section 15) and the Local Government (Committees and Political Groups) Regulations 1990, and Rule 33.2 below, Full Council (usually at its Annual Meeting) will appoint Committees and Sub-Committees in accordance with the Local Government Act 1972 (Section 102).

33.2 Eligibility

Subject to the provisions of Rule 33.3 below the eligibility requirements with regard to membership of Committees and Sub-Committees are as follows:-

Overview and Scrutiny Committees

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees.

Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee, Planning Policy & Local Plan Committee, Planning Committee and Miscellaneous Licensing Sub-Committee

All Councillors may be members of these Committees. ~~though the Planning Policy & Local Plan Committee will contain different Members from the Planning Committee in order to minimise the risk and perception of, or accusations of, 'pre-determination' in the consideration of planning applications against policies in the Local Plan.~~

~~In addition, the~~ **The** members of the Miscellaneous Licensing Sub-Committee must also be members of the parent Licensing and Registration Committee.

CIPFA Guidance recommends that the membership of the Audit Committee should not cross-over with either the Executive or Scrutiny functions. However, Officers' advice is that if Members feel that cross membership is necessary then this should be limited to one member from each of the Executive or Scrutiny functions. The Chairman of the Audit Committee should not be a member of the Cabinet.

Standards Committee

All Councillors may be members of this Committee except that no more than one member of the Committee shall be a member of the Cabinet (and that member cannot be the Leader of the Council). In addition, no Leaders of Political Groups can be members of that Committee.

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Premises/Personal Licences Sub-Committee

The membership of this Sub-Committee is appointed on an ad hoc basis from the membership of the Licensing and Registration Committee.

33.3 Training Members of the Audit, Licensing and Registration, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory. **The Monitoring Officer shall define what is meant by the word “mandatory” and they will also decide whether the training offered/provided is/was sufficient and “fit for the purpose”.**

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee unless they have received specific training with regard to the determination of applications for personal or premises licences submitted under the Licensing Act 2003.

A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.

A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

33.4 Resignation of Chairmanship Etc.

Any Chairman, Vice-Chairman or Member of a Committee, Sub-Committee or Working Party may at any time, by notice in writing or personal email delivered to the Chief Executive, resign his position and such resignation shall take immediate effect on delivery of the notice.

33.5 Casual Vacancies

In the case of a casual vacancy in the office of a Chairmanship or Vice-Chairmanship of a Committee, Sub-Committee or Working Party an item shall be placed on the agenda of the next meeting of the relevant body which shall, before proceeding to any other business, elect from its Members a Chairman or Vice-Chairman as the case may be for the remainder of the year.

34. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES

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34.1 General

Substitute members may attend, speak and vote at meetings of Committees and Sub-Committees of the Council, subject to Rules 33.3 and 33.4. In the case of the Overview and Scrutiny Committees, such Substitute Members may not be Members of the Cabinet. Substitute Members may not be appointed to any Working Parties unless that working party has been established in full accordance with the Widdicombe Rules.

34.2 Eligibility

A Substitute shall belong to the same political group (as defined in the Local Government and Housing Act 1989) as the Member for whom he is a Substitute. Substitution by, or of, Members not in a political group is not permitted.

Only the Member being substituted or their Group Leader (or Deputy) can appoint substitute members. Notification of a substitute from the Member being substituted or their Group Leader (or Deputy) must be given to Committee Services prior to the commencement of the meeting at which the substitution is to apply. Where more than one notification is received, the Group Leader (or Deputy's) request will take precedence.

34.3 Training Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all named Substitute Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council.

34.4 Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees

Group Leaders shall, provide named Substitute Members (in accordance with proportionality rules) and all substitutions will only be permitted from this list. Any member of a political group shall be eligible to act as a named Substitute Member providing that they have received training in relation to all relevant Audit, Licensing & Registration, Standards-related or Planning matters under a continuing programme arranged by the Council. When naming a designated substitute, Group Leaders shall, as far as reasonably practicable, satisfy themselves that the named Member is as conversant with all relevant Audit, Licensing and Registration, Standards-related and Planning matters as the appointed members of those Committees.

34.5 Substitute Members of the Premises/Personal Licences Sub-Committees

Substitutes for Members of the Premises/Personal Licences Sub-Committee shall be made from the appointed membership of the Licensing & Registration Committee. Such substitute need not be a Member of the same political group and the provisions of Rule 34.2 shall not apply.

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The Committee Services Manager will, at the request of the Group Leader of a member of the Premises/Personal Licences Sub-Committee or at the request of the Member concerned, appoint a Substitute from amongst the appointed Membership of the Licensing & Registration Committee who should have received training in relation to licensing under a continuing programme arranged by the Council. Such request need not be in writing.

The Committee Services Manager will ensure that a fourth or standby Member, drawn from amongst the appointed membership of the Licensing & Registration Committee, is present at every meeting of the Premises/Personal Licence Sub-Committee. Such Member shall act as a member of the Sub-Committee in the event that one of the three Sub-Committee members becomes unable to act due to e.g. illness, conflict of interest.

35. MEETINGS OF COMMITTEES

35.1 Ordinary Meetings

The Committees of the Council will normally hold meetings (known as Ordinary Meetings for the purposes of these Procedure Rules) on dates and at times as the Council decides at its Annual Meeting.

~~The Chairman (or failing him the Vice-Chairman) of a Committee may, from time to time, vary the place, date or hour of a meeting or meetings of that Committee. Such variation will include holding the meeting or meetings by remote means in order to comply with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.~~

The business of ordinary meetings of a Committee etcetera shall cease after a duration of three hours on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond three hours they will be expected to give an indication of the length of that extension and secure the consent of the Committee etc. in doing so.

For the avoidance of any doubt the above requirement does not extend to a meeting of any committee or sub-committee which is conducting a Hearing into licensing or standards/conduct or other regulatory matters. On such occasions the Chairman will be expected to call regular adjournments of the Hearing in order for participants to have comfort and/or refreshment breaks.

35.2 Special Meetings

1. The Chairman of a Committee can call a Special Meeting of a Committee at any time.
2. A Special Meeting shall also be called on the requisition of a not less than a quarter of the whole number of Members of the Committee, delivered in writing, or by email to the Chief Executive but in no case shall less than three Members requisition a Special Meeting.

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No business except that set out in the Summons and Agenda shall be carried out at a Special Meeting of a Committee.

35.3 Recording and Streaming of Committee Meetings

In accordance with the approved Protocol for such matters, the Council will make an audio and/or audio-visual live stream and recording of meetings of its Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

36. ATTENDANCE AT MEETINGS

Except as otherwise provided in this Constitution and in particular having regard to the provisions of the Access to Information Procedure Rules:-

- 36.1** Every Member of the Council shall be entitled to attend all meetings of Committees and Sub-Committees. This does not include attendance at Portfolio Holder Working Parties. A Member of the Council shall not take part in any discussion at a meeting of a Committee or Sub-Committee of which he is not a Member, unless specifically invited to do so by the Chairman of that meeting, or unless he is attending the meeting of the Committee under the provisions of Rule 12.6, and he shall in no case be entitled to vote. The Member shall obtain the permission of the appropriate Chairman prior to the relevant meeting if he wishes to speak at that meeting. **Exceptions to this include that the Chairman of the Planning Committee has a standing invitation to attend meetings of the Planning Policy & Local Plan Committee and to express the Planning Committee's views and comments on the Report items that are being considered by the Planning Policy & Local Plan Committee. Additionally, where a Member has, pursuant to notice duly given under Rule 12.6, moved a motion which has been referred to a Committee under Rule 12.5, he shall be given an opportunity of explaining that motion. have the right, in accordance with Rule 12.6, to attend the Committee meeting in order to answer any questions and/or points of clarification, if so requested.**

Where the public speaking scheme (Rule 40) applies to a particular application or matter before the Planning Committee, no Member shall be entitled to address or speak to the Planning Committee under this Rule. This does not detract from any rights the Member has under the public speaking scheme.

At such times as the Standards Committee (in respect of Hearings on standards/conduct related matters) or the Premises/Personal Licences Sub-Committee (in respect of Hearings on licensing related matters) exclude the press and public and retire to deliberate and reach their decision "in camera", only the duly appointed members of the decision making body will be allowed to remain in the meeting. All other Councillors will be treated as members of the public and will be excluded from the meeting at that time.

- 36.2 The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such**

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instances, the Committee or Sub-Committee in question will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.

37. SUB-COMMITTEES AND WORKING PARTIES

The Council will decide the establishment, terms of reference, delegated powers, number of Members and the allocation of seats to political groups for all new Sub-Committees.

The Council, (normally at its Annual Meeting) will also appoint individual Members to standing Sub-Committees and will appoint the Chairman and Vice-Chairman of those Sub-Committees.

Every non-overview and scrutiny Committee of the Council may appoint working parties for specified purposes in accordance with Part 3 of this Constitution. The Committee may amend the constitution of the working parties or dissolve them at any time.

The Chairman and Vice-Chairman of any working parties appointed by a Committee will be determined at the first meeting of the working party. Meetings of working parties will normally be convened, either at an earlier meeting of the working party or by the Committee Services Manager in consultation with their Chairman.

38. QUESTIONS ON NOTICE AT COMMITTEES AND SUB-COMMITTEES

Subject to Rules 11.4 and 11.5 and upon providing two working days' notice, a Member of a Committee may, at a meeting thereof, ask the Chairman of it a question on any matter in relation to which the Council has powers or duties of which affect the Tendring District and which falls within the terms of reference of that Committee.

39. SITE VISITS, SPECIFIC BRIEFING OR TRAINING

39.1 Where a site visit, specific briefing or training is called by Officers in relation to a planning or licensing application received by the Council, any Member or Substitute Member of that Committee who does not attend the site visit, specific training or briefing, shall not be eligible to take part at the meeting at which the application to which the site visit, specific training or briefing related is to be considered.

39.2 Notification of site visits arranged by any Committee or Sub-Committee shall be given to the Members for the ward in which the site is situated. Such Members shall have the right to attend the site visit but shall not take part in any discussion unless specifically invited to do so by the Chairman of the body that has arranged the site visit. The body arranging the site visit shall not exercise any delegated powers nor take any decisions in the course of the visit.

40. SCHEMES TO PERMIT MEMBERS OF THE PUBLIC TO SPEAK AT MEETINGS OF THE PLANNING POLICY & LOCAL PLAN AND PLANNING COMMITTEES

The Planning Policy & Local Plan Committee and the Planning Committee will each have a scheme providing a limited right for speaking by members of the public in relation to applications

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or other matters of business. The schemes shall be in such a form as the Full Council determines having considered a recommendation from the relevant Committee.

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ARTICLE 7 – THE EXECUTIVE

7.08 Cabinet Procedure Rules

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader. ~~Such location will include holding the meeting or meetings by remote means in order to comply with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.~~

1.2 Meetings of the Cabinet

Meetings of the Cabinet and their committees must be held in public in accordance with the Access to Information Procedure Rules except where confidential or exempt information is to be discussed.

In accordance with the approved Protocol for such matters, the Council will make an audio and/or audio-visual live stream and recording of meetings of Cabinet and their Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

1.5 Who may Attend?

- (i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader, or in any case vote.
- (ii) The Leader or Deputy Leader of any political group may, as of right, attend meetings of the Cabinet and participate fully in the discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of a group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Group's opposition to all, or part, of a decision.
- (iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer (or their Deputy), the Monitoring Officer (or their Deputy) and other relevant Corporate Directors or Assistant Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.

(iv) The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business and present a report to discharge their statutory and constitutional duties whenever necessary.

~~(iv) The Chief Financial Officer and Monitoring Officer have the right to attend and present a report to discharge their statutory duties whenever necessary.~~

(v) The Constitution includes no provision for substitute members at meetings of the Executive.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

The rights to information are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

(a) **Voting and petitions:**

People on the Electoral Register for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) **Information**

The public have a right to:

- (i) Attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed (Committees for this purpose do not include Working Parties/Groups and/or Task and Finish Review Groups);
- (ii) Attend meetings of the Cabinet when key decisions are being considered;
- (iii) Find out from the Council's website what key decisions will be taken by Cabinet and when;
- (iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (v) In accordance with the published timescales inspect the Council's accounts and make their views known to the external auditor.

~~(c) **Remote Attendance by Members of the Public**~~

~~The public notice of the date and time of a Council, Committee or Cabinet meeting will include details of whether the meeting is being held as a remote meeting, and if so details will be included and available on the Council's website on how to access the meeting.~~

(c) **Participation**

- (+) The public have a right to participate by submitting written questions to Full Council meetings and contribute to investigations by the Overview and Scrutiny Committees. The public can also participate at meetings of the Planning Policy & Local Plan Committee and the Planning Committee in accordance with the relevant Public Speaking Schemes.

~~(ii) — A member of the public's right to attend a Council or Committee meeting in order to exercise a right to speak includes remote meetings in the circumstances as set out in Council Procedure Rule 10A within Part 4 of the Constitution. Details on how to join the meeting for the purposes of participation on a particular agenda item will be provided.~~

(d) Complaints

The public have a right to complain to:

- (i) A Ward Councillor;
- (ii) The Council itself under its Complaints Scheme, details of which are available on the Council's website;
- (iii) The Local Government and Social Care Ombudsman, after using the Council's own Complaints Scheme;
- (iv) **The Housing Ombudsman;**
- (v) The Monitoring Officer about a breach of the Council's Code of Conduct (which sets out the standards of behaviour expected of a Councillor and is contained within Part 6 of this Constitution). The Complaints Procedure is available on the Council's website.

3.02 Citizens' Responsibilities

At meetings of the Council, its Committees or Cabinet, members of the public must treat Councillors and Officers with respect and courtesy and must not wilfully harm the property of the Council, Councillors or Officers.

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RESPONSIBILITY FOR COUNCIL – NON EXECUTIVE FUNCTIONS		
Committee	Functions and Terms of Reference	Delegated Functions
Full Council	<p>Those functions retained for responsibility by Full Council as set out in Article 4 of the Constitution and the following specific functions as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</p> <p>D. Discharge the following Functions relating to Elections:</p> <ul style="list-style-type: none"> • Duty to appoint an Electoral Registration Officer • Power to dissolve Parish Councils • Power to make orders for grouping parishes, dissolving groups and separating parishes from groups • Duty to appoint Returning Officer for local government elections • Duty to provide assistance to European Parliamentary elections • Power to fill vacancies in the event of insufficient nominations • Power to submit proposals to Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000 	<p>Chief Executive in consultation with the Council Chairman:</p> <ol style="list-style-type: none"> 1. Agreeing the scale of fees payable at elections at District and Parish Councils, referenda and Parish Polls. <p>Chief Executive:</p> <ol style="list-style-type: none"> 1. Returning Officer at Local Elections 2. Power to assign Officers in relation to requisitions of the Registration Officer. 3. Actions required meeting the duty to provide assistance at European Parliamentary elections 4. To divide constituency, and electoral divisions and wards into polling districts and designate their polling places 5. Powers in respect of holding of elections 6. Power to pay expenses properly incurred by Electoral Registration Officers

	<ul style="list-style-type: none"> • Duty to consult on change of scheme for elections and associated powers under the Local Government Public Involvement and Health Act 2007 	<p>7. Duty to declare vacancy in office in certain cases</p>
	<p>E. The discharge of the following functions relating to the Name and Status of Areas</p> <ul style="list-style-type: none"> • Power to change the name of the district or parish • Power to petition for a charter to confer borough status <p>EB. Discharge the Duties, Functions and Powers relating to Community Governance</p> <p>F. Power to Amend, Revoke or Re-enact Byelaws</p> <p>G. Power to Promote or Oppose Local or Personal Bills</p> <p>Discharge of the following miscellaneous functions – Part II:</p> <ul style="list-style-type: none"> • Power to make standing orders (this includes amendments to the Constitution) • Power to make standing orders as to contracts • Duty to make arrangements for the proper administration of financial affairs • Power to appoint Officers for particular purposes (appointment of “Proper Officers”) • Duty to designate Officer as the head of the authority’s Paid Service, and to provide staff, etc. • Duty to designate Officer as the Monitoring Officer, and to provide staff, etc. • Duty to provide staff etc. to person nominated by Monitoring Officer 	<p>8. Duty to give public notice of a casual vacancy</p> <p>9. Power to make temporary appointments to parish councils</p> <p>10. Regrading posts, restructuring and determining staff levels (except where Section 4 of the Local Government Act 1989 applies and it is appropriate for the full Council to consider any proposals of the Head of Paid Service in this regard)</p> <p>11. Power to authorise compensation payments up to a maximum of £5,000 as a result of Local Government & Social Care Ombudsman or Housing Ombudsman recommendations or by virtue of the Corporate Complaints Procedure</p> <p>Chief Executive or Monitoring Officer:</p> <p>1. The Proper Officer before whom a Member’s formal Declaration of Acceptance of Office may be made.</p>

	<ul style="list-style-type: none"> • Power to make payments or provide other benefits in cases of maladministration <p>Other matters</p> <p>Those as set out in Article 4 of the Constitution together with:</p> <ul style="list-style-type: none"> • Prepare and approve a Pay Policy Statement for the financial year in accordance with Chapter 8 of the Localism Act 2011. 	<ol style="list-style-type: none"> 2. The appointment or removal of any individual to/from a Committee, Sub-Committee, panel or working party at the request of the relevant Group Leader. 3. The advertisement of vacancies for the position of Independent Person(s) and the Independent Remuneration Panel, the review of applications received; the interview of suitable candidates and the making of recommendations to Council as to who should be appointed.
	<ul style="list-style-type: none"> • The appointment of the Chief Executive • On the recommendation of the Human Resources and Council Tax Committee: <ol style="list-style-type: none"> (a) the dismissal including redundancy, in accordance with the statutory provisions, of the Chief Executive, Chief Finance Officer or Monitoring Officer (following the outcome of an Independent Panel) (b) The voluntary early retirement and voluntary redundancy of the Chief Executive (c) The retirement on grounds of ill health of the Chief Executive on the recommendation of the Council's medical advisor (d) the terms and conditions of the Chief Executive 	

SCHEDULE 4 - SCHEDULE OF PROPER OFFICERS AND RELATED PROVISIONS

The Council has appointed the following Proper Officers:-

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Government Act 1972			
Section 41	Returning Officer at Local Elections	Chief Executive	Deputy Chief Executive
Section 83	Witness and receipt of Declarations of Acceptance of Office	Chief Executive	Monitoring Officer
Section 84	Receipt of Notice of Resignation	Chief Executive	Monitoring Officer
Section 88	Convening of Meeting of Council to fill casual vacancy in office of Council Chairman	Chief Executive	Monitoring Officer
Section 89	Receipt of Notice of casual vacancy in the case of Councillors	Chief Executive	Head of Democratic Services & Elections
Section 100B(2)	Exclusion of Reports from inspection by public	Monitoring Officer	Deputy Monitoring Officer
Section 100B(7)	Provision of copies of documents other than Agenda and Minutes to the Press	Assistant Director (Governance)	Head of Democratic Services & Elections
Section 100C(2)	Provision of summary of proceedings of a closed meeting	Monitoring Officer	Deputy Monitoring Officer
Section 100D(5)	Provision of background papers	Head of Democratic Services & Elections	Committee Services Manager
Section 100F(2)	Disclosure of documents to Members	Monitoring Officer	Deputy Monitoring Officer
Section 115	Receipt of money due from Officers	Section 151 Officer	Deputy Section 151 Officer
Section 146	Statutory Declarations and Certificates with regard to securities	Section 151 Officer	Deputy Section 151 Officer
Section 151	Responsibility for provision of adequate	Section 151 Officer	Deputy Section 151 Officer

	and effective Internal Audit function		
Section 191	Functions with respect to Ordnance Survey Act 1841	Corporate Director (Place and Economy)	Assistant Director (Strategic Planning & Place)
Section 210	Powers in respect to local charity	Section 151 Officer	Deputy Section 151 Officer
STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Government Act 1972 cont.			
Section 212	Local Land Charges Register	Assistant Director (Planning)	Support & Development Manager
Section 225(1)	Deposit of Documents	Assistant Director (Governance)	Committee Services Manager
Section 229(5)	Certification of copies of documents intended to be used in legal proceedings	Monitoring Officer	Deputy Monitoring Officer
Section 234(1)	Authentication of Documents	Monitoring Officer	Deputy Monitoring Officer
Sections 236 & 238	Certification of Byelaws	Assistant Director (Governance)	An in-house Solicitor
Schedule 12 – Para 4 (a)	Signature of Council Summons	Chief Executive	Deputy Chief Executive
(b)	Receipt of Notice of address for Council Summons	Head of Democratic Services & Elections	Committee Services Manager
Schedule 14 – Para 25	Certification of Resolutions	Monitoring Officer	Deputy Monitoring Officer
Schedule 16 – Para 28	Receipt of deposit of Lists of protected buildings	Corporate Director (Place & Economy)	Assistant Director (Planning)
Schedule 22 – Para 17	Authentication of Notices etc. under the Housing Acts	Corporate Director (Operations and Delivery)	Assistant Director (Housing & Environment)
Local Government (Miscellaneous Provisions) Act 1976			
Section 41	Evidence of Resolutions and Minutes of proceedings	Monitoring Officer	Deputy Monitoring Officer
Representation of the People Regulations 1986			

Regulation 96	Retention of documents relating to Postal voting	Chief Executive	Head of Democratic Services & Elections
Representation of the People Act 1983			
Section 8(2)	Appointment of Electoral Registration Officer (automatically acting Returning Officer in Parliamentary elections)	Chief Executive	Deputy Chief Executive
STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Representation of the People Act 1983 cont			
Sections 18B and 31	Designation of Polling Stations Districts and Places (Parliamentary and Local Government Elections)	Chief Executive	Assistant Director (Governance)- Head of Democratic Services & Elections
Section 52(3)	Deputising for Registration Officer	Deputy Chief Executive	Head of Democratic Services & Elections
Sections 67 to 70	Appointment etc. of Election Agent	Returning Officer	Returning Officer to appoint Deputies at each election (as required)
Sections 75, 81, 82 & 89	Return of election expenses	Chief Executive	Head of Democratic Services & Elections
Section 128	Publication of election Petition	Chief Executive	Head of Democratic Services & Elections
Section 131	Provision of accommodation for election court	Chief Executive	Head of Democratic Services & Elections
Local Elections (Principal Areas) Rules 1986			
Rule 44	Receive notice of Declaration of Result	Chief Executive	Head of Democratic Services & Elections
Rules 46 to 48	Retention of election documents	Chief Executive	Head of Democratic Services & Elections
Police and Crime Commissioner Elections Order 2012			
Section 10 Article 10	Designation of Polling Stations Districts & Places	Chief Executive	Assistant Director (Governance)- Head of Democratic Services & Elections
Local Government Finance Act 1988			
Section 114	Report to Full Council in respect of unlawful expenditure or an unbalanced budget	Section 151 Officer	Deputy Section 151 Officer
Section 116	To inform the Authority's external auditor of the date, time, place and	Section 151 Officer	Deputy Section 151 Officer

	outcome of meetings held under Section 115 of the Act		
Local Government (Committees and Political Groups) Regulations 1990			
Regulations 8-10, 13, 14 & 17	Political balance and appointments to committees	Chief Executive	Assistant Director (Governance)
Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000			
Regulations 5-8	Functions relating to petitions and referenda for elected mayor	Assistant Director (Governance)	Head of Democratic Services & Elections
STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Authorities (Standing Orders) (England) Regulations 2001			
Schedule 1 Part II	Functions relating to the appointment and dismissal of a member of staff	Chief Executive	Assistant Director (Partnerships)
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and final determination of 'Need to Know'			
Regulations 2, 7, 10, 12, 13, 14, 15, 16 & 20 and Common Law position	Access to Information Procedure and Recording of Decisions	Monitoring Officer	Deputy Monitoring Officer

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Committee	Functions and Terms of Reference	Delegated Functions
<p>Audit Committee</p>	<p><i>The discharge of the following miscellaneous functions – Part II as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities Regulations) (England) 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Duty to approve the authority’s statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).</p> <p>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 1. To provide independent assurance of the adequacy of the risk management framework and the associated control environment; 2. To provide independent scrutiny of the Council’s financial and non-financial performance to the extent that it affects the Council’s exposure to risk and weakens the control environment; 3. Considers the annual budget for the internal audit service as part of the Council’s budget setting process; and 4. To oversee the financial reporting process: <p>Audit Activity</p> <ol style="list-style-type: none"> 1. Considering the Internal Audit Manager’s annual report and opinion and a 	<p>Section 151 Officer and Internal Audit Manager</p> <p>The provision of advice and support to the Audit Committee on all aspects of its functions and duties</p>
	<ol style="list-style-type: none"> summary of internal audit activity (actual and proposed), and the level of assurance it can give over the Council’s corporate governance arrangements. 2. Considering reports on the operation of internal audit and summaries of specific internal audit reports where requested. 3. Considering reports from internal audit on agreed recommendations not implemented within a reasonable timescale. 	

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	<p>4. Considering Assessing external auditor and external regulatory inspection reports and monitoring any quality improvement programmes where required. Comments are provided providing comments on these to Cabinet as appropriate.</p> <p>5. Commenting on the scope and depth of external audit work and ensuring it gives value for money.</p> <p>6. Liaising with the Audit Commission in regard to the appointment of the Council's external auditor.</p> <p>Regulatory Framework</p> <p>7. Reviewing significant issues referred by the Chief Executive, Cabinet or any Council Committee (subject to the availability of resources within the approved audit plan).</p> <p>8. Monitoring the effective development and operation of risk management and corporate governance.</p> <p>9. Monitoring Council policies on "Raising Concerns at Work", the whistleblowing policy and the anti-fraud and corruption strategy.</p> <p>10. Overseeing the production of the Code of Corporate Governance, including the Statement of Internal Control.</p> <p>11. Considering the arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.</p> <p>12. Considering the Council's compliance with its own and other published standards and controls (other than those covered by the Standards Committee).</p>	
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	Accounts	
	13. Reviewing and approving the annual statement of accounts.	
	14. Considering whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	
	15. Receiving the external auditor's report to those charged with governance.	

A.4 APPENDIX G – PROPERTY DEALING PROCEDURE (APPENDIX A)

PROPERTY DEALING PROCEDURE - APPENDIX A Levels of Decision Making

Right or interest to be granted/acquired	Officer who is Head of Department or Corporate Director	Officer who is Corporate Director (Operations & Delivery)	Relevant Portfolio Holder for Assets (See Note below)	Cabinet
Reporting	Formal Record of Officer Decision to be completed and published*		Formal Report and Record of Decision required to be completed and published	
1. A licence or access agreement for 12 months or less				
2. a licence or access agreement for more than 12 months or any tenancy at will				
3. Tenancies for less than seven years excluding security of tenure				
4. Renewal, assignment or surrender of tenancies as 3 above				
5. Tenancies for seven years or more or tenancies not excluding security of tenure				
6. Renewal, assignment or surrender of tenancies as 5 above				
7. Grant, acquisition or release of Rights of Way, Easements or other permanent rights				
8. Freehold property interest less than £100,000				
9. Freehold property interest more than £100,000				
10. Any disposal of open space where objections have been received				

11. Any disposal at less than the Best Consideration Reasonably Obtainable				
12. New Lease to residential tenant under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 (commonly referred to as a lease extension)				

*Subject to access to information rules.

Note: The relevant Portfolio Holder will be determined by whether the property sits, or will sit, within the General Fund or the Housing Revenue Account.

Greyed box indicates level of decision making.

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4.3 TENDERS (Procurement greater than £50,000 excluding VAT)

4.3.8 Acceptance of Tenders

- (a) Unless the requirements of Procurement Procedure Rules 4.3.5 (v) have been applied, the most financially advantageous tender to the Council shall be accepted by the Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (b) Where Procurement Procedure Rule 4.3.5 (v) applies, the tenders must be evaluated in accordance with the agreed evaluation process/criteria, and evidence retained to demonstrate this. The tender identified as most advantageous to the Council shall be accepted by the Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (c) In those instances when only one Tender has been submitted but it is deemed advantageous to the Council following the evaluation process, that tender shall be accepted by the Corporate Director/Head of Department, in consultation with the Corporate Finance & Governance Portfolio Holder and the relevant Portfolio Holder or Committee Chairman.**

The Corporate Director/Head of Department will produce a detailed report explaining why this course of action has been pursued and the said report will be circulated, alongside the Officer decision, to all members of the Council.

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ARTICLE 13 – DECISION MAKING

13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas of functions. This record is set out in Part 3 of this Constitution. The Council's Monitoring Officer will also retain a central record of delegations by the Chief Executive, the Corporate Directors and Assistant Directors providing authority within their respective service areas of responsibility.

13.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consideration of all the relevant factors and options, taking into account the results of any consultation undertaken and the professional advice of Officers;
- (c) Respect for human rights, and equality and diversity;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes; and
- (f) Transparency (i.e. explaining what options were considered and giving the reasons for that decision).

13.03 Key Decisions

A "key decision" means an executive decision that is likely to –

- result in the local authority incurring expenditure which is, or the making of savings which are in excess of, £100,000 or is significant having regard to the local authority's budget for the service or function to which the decision relates; or
- be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Article 7 of this Constitution.

13.04 Decision making by Council, Cabinet, Overview and Scrutiny Committees, Other Committees and Sub-Committees

All decisions will follow the general principles contained within this Article. In addition, decision-makers will follow the relevant procedure rules, as set out in Part 5 or Article 7, as appropriate when considering the matter.

The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the decision making body will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.

13.05 Decision Making by Council Bodies Acting as Tribunals

The Council, a Councillor or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility, of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial as contained in Article 6 of the European Convention on Human Rights.

A.4 APPENDIX J

ARTICLE 6 – OVERVIEW AND SCRUTINY FUNCTION

6.01 General Role and Functions:

The Council will appoint two Overview and Scrutiny Committees, whose terms of reference are as set out below. Within its functions, each Overview and Scrutiny Committee will:

1. Review or scrutinise executive decisions made by the Cabinet (including those delegated to Portfolio Holders and Officers) or are due to be made by the Cabinet or a Portfolio Holder including performance in relation to individual decisions over a period of time;
2. Act as a consultee on policy development and review of policies;
3. Submit to Full Council for approval an annual overview and scrutiny work programme;
4. Make reports or recommendations to the Cabinet or the Council as appropriate, with respect to the discharge of any Council function or on any matter affecting the authority's area or its inhabitants.
5. Prepare and present an annual performance report to Full Council covering the outcomes of the overview and scrutiny functions by each committee;
6. Deal with any Call-in of Cabinet decisions (including those delegated to Portfolio Holders and Officers) in accordance with the Overview & Scrutiny Procedure Rules;
7. Consider requests for scrutiny reviews under the Councillor Call for Action process and petitions as referred under the Petitions Scheme and Council Procedure Rules.

In undertaking the General Role the following principles apply:

- (i) The focused co-ordination of all overview and scrutiny functions on behalf of the Council including the performance reporting on the Corporate Plan, Priorities and Projects;
- (ii) Appoint, where appropriate, and in accordance with its agreed work programme, a group to undertake researched and evidenced reviews on a specific topic on a task and finish basis.

The terms of reference of any Task and Finish group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement; and

- (iii) Consideration of the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny and prioritising those referrals in a timely manner.

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) Community Leadership Overview and Scrutiny Committee

~~To hold scheduled meetings every two months but with the Chairman able to call additional formal meetings.~~ **Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate.** Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

To perform the role of Overview and Scrutiny and its functions in relation to:-

- Community Leadership - developing the external focus of overview and scrutiny on “district-wide” issues’ (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public;
- Approval of discrete researched and evidenced reviews on the effectiveness of partnership operating in the area with particular focus on:
 - Community Safety
 - Health and Well-being
 - Economy, Skills and Educational Attainment
- Community engagement, development and empowerment
- Leisure and Tourism (except matters relating to budgets)
- Housing Strategy and Homeless Service (except the Housing Revenue Account)
- Emergency Planning

(ii) Resources and Services Overview and Scrutiny Committee

- The Chairman and the Vice-Chairman of the Committee will normally be Members of a political group that is not represented on the Cabinet. ~~The Committee will hold 8 scheduled meetings per year but with the Chairman able to call additional formal meetings.~~ **Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate.** Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

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- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council's resources including approval of discrete researched and evidenced reviews on the effectiveness of:

Financial Forecast Budget setting and monitoring (including General Fund & Housing Revenue Account)

Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)

Procurement and Contract Management

Transformation and Digital Strategies

Customer Service and Standards

6.03 Proceedings of the Overview and Scrutiny Committees:

The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution.

A.4 APPENDIX K – OVERVIEW & SCRUTINY PROCEDURE RULES

4. MEETINGS OF THE COMMITTEE

~~There will be eight ordinary meetings of the Resources and Services Overview and Scrutiny Committee in each year. The Community Leadership Overview and Scrutiny Committee will meet every other month.~~ **Meetings of the Overview and Scrutiny Committees will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council.** In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate.

15. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) It shall be for the relevant Management Team member to determine which Officers attend to provide advice to Overview and Scrutiny Committees, subject to each Committee being able to supplement this as thought necessary through (b), (c) and (d) below: **However, the Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the Overview and Scrutiny Committee will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.**
- (b) Any Overview and Scrutiny Committee may scrutinise and review decisions made or action taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, it may require any Cabinet Member, or any Senior Officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions (excluding decisions made by the Planning, Licensing, Audit or Standards Committees); and/or
 - (ii) the extent to which the actions taken implement Council policy.
- (c) Where any Cabinet Member or Senior Officer is required to attend a meeting of the relevant Overview and Scrutiny Committee, at least seven working days' notice of the meeting at which they are required to attend shall be given. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the relevant Committee. Where the account to be given to the Committee will require production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that document.

- (d) Where, in exceptional circumstances, the Cabinet Member or Senior Officer is unable to attend on the required date, the Chairman of the relevant Committee, shall, in consultation with the Member or Officer, arrange a substitute or an alternative date for attendance.
- (e) Participation by any Cabinet Member(s) in the general debate of the Overview and Scrutiny Committees will be at the discretion of the relevant Chairman (this rule does not apply when the Committee is considering a call-in).

A.4 APPENDIX L

**PROTOCOL FOR WEBCASTING OF FORMAL
COUNCIL MEETINGS AND FOR PUBLIC
FILMING AND REPORTING OF MEETINGS**

This protocol is provided to assist the conduct of webcasting and other filming/recording of meetings and to ensure compliance with its obligations under the Openness of Local Government Bodies Regulations 2014, Data Protection Act 2018 and the Human Rights Act 1998.

Webcasting of public council and committee meetings

Introduction

Tendring District Council is committed to being open and transparent in the way it conducts its business. Most formal meetings of the public are open to the public to attend and there are schemes covering the submission of petitions and questions to the Council meetings as well as schemes for public speaking at meetings of the Planning Committee. However, some residents may not be able to attend the meetings they are interested in. To ensure that those residents can still engage in the democratic process, the Council films and streams, live, many of its meetings ('webcasting'). These can then be watched online as the meeting happens or up to 24 months after the meeting (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). In addition to the webcasting service provided by the Council, there are additional legal rights for the public to attend all of our formal public meetings and film, photograph, audio record or report from the meeting using social media or any other means (subject to it not being disruptive). These rights are explained below.

Which meetings are webcast?

The Council aims to webcast all its formal meetings to which the public have a right to attend. This includes meetings of its Council, Cabinet, Planning Committee and other committees.

How do we webcast and how long will the recording be available?

Cameras will be located in the Council's Committee Room at the Town Hall/Princes Theatre to provide the webcasting facility. The Council may also hold hybrid meetings, where some participants join the meeting remotely through a video link. The webcast of meetings will be available on the Council's website for a period of up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year) and, after that, the recordings will be deleted.

In so far as individuals can be identified visually on a webcast or they can be heard in a recording, Tendring District Council will use that personal information as part of its official authority/public task and in order to promote engagement, service delivery and democratic responsibilities.

When individuals partake in a meeting that is webcast, the Council may share their information with Elected Members, other Tendring District Council Services, other individuals involved in the meeting and the public through its webcast service. We may also provide your information to our suppliers to enable us to deliver this service.

Anyone who does not give their consent to be filmed/recorded as part of a meeting to which this protocol applies must specifically request the Council's Monitoring Officer for an exception to be made in advance of the meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making an exemption.

In relation to these matters, the Council will normally not show camera footage of members of the public who address the formal meeting of Council, Cabinet or a Committee when presenting petitions, asking questions or as part of a public speaking scheme of the Council. Audio of their contributions will be webcast and recorded. However, the camera will, during such public involvement in meetings record either a wide angle view of the Councillors attending or of the Chairman of the meeting. A statement to the effect that a member of the public is speaking shall be displayed on the webcast/recording where this is possible by way of explanation of the audio and video element of the webcast/recording at that time.

In addition to the above, the webcast/recording shall normally not show camera footage of the press and public gallery and those there. It cannot be guaranteed that no footage will be webcast or recorded, however, efforts will be made to minimise or avoid entirely that footage.

Are there any meetings or parts of meetings which the Council may not webcast?

Tendring District Council wants to make sure meetings are webcast as far as possible to ensure full engagement with the public. However there are instances where it may not be appropriate to webcast a meeting or parts thereof, for example:

- **When an individual, who is presenting at a public meeting, specifically requests not to appear on the public webcast, and we agree with the request.** We will always seek to accommodate such requests and work with that individual to agree an approach that is satisfactory to all parties. Any such part of a meeting that has not been broadcast will not appear online or be available following the meeting. If you are watching from home you will see a notice appearing on the screen to let viewers know what is happening. If you object to appearing in the webcast, you should make this known in writing prior to the meeting by emailing democraticservices@tendringdc.gov.uk and we will contact you to discuss further.
- **In considering whether or not to record contributions by children at meetings** the Council will, for those aged 16 or over check with the young people themselves that they are content to be filmed and, subject to that, record and broadcast them. For children younger than 16, or those who are otherwise thought vulnerable, we will record only with the consent of the appropriate parent or guardian. If we are in any doubt we will stop the webcast whilst children are speaking. If the children are attending as part of an event involving stakeholder(s) (for example, a school or schools), the Council will expect the stakeholder(s) to have procured the necessary parents' consents.
- **When Councillors at a meeting pass a resolution to exclude the press and public because there is likely to be disclosure of exempt or confidential information.** The Council will always try to conduct its business in public, however from time to time the press and public may be excluded from meetings in accordance with the rules set out in legislation and the Council's Constitution. You will be notified if watching from home that the webcasting has ceased for this part of the meeting and why. The Chairman of the meeting will be asked to

confirm that webcasting has stopped before starting to discuss exempt or confidential information.

Rights of the public to film, record and photograph at any meeting

In addition to the webcasting of meetings hosted by the Council, by law the public also has a right to (subject to it not being disruptive):

- Film, photograph or audio record a meeting or any part thereof
- Use any other means (e.g. tweeting, blogging etc.) to enable those not present to see or hear proceedings as they happen or later
- Report or provide commentary of the proceedings so that the reporting or commentary is available as the meeting takes place or later

Why does the Council allow the public and press to film, record and photograph its meetings?

In 2014, the Openness of Local Government Regulations came into force. This enabled the public to report from all local authority public meetings, in a bid to increase transparency and openness in local decision making.

The provisions only apply to meetings of the Council held in public. You may not film, record or use social media to report from any of the Council's meetings which are private or not open to the public.

Full details of the right of the public to film, record and use social media to report from a meeting, including the exemptions mentioned above, can be found in the [guide](#) issued to accompany these regulations.

Are there any other restrictions if I want to report from a meeting?

You do not have to ask us permission in advance to film, record, photograph or report from the meeting using social media. However, we do ask that you respect the following when recording and otherwise reporting from a meeting of the Council:

- Please do not film, photograph or report the views of children, young people, vulnerable people and other members of the public who actively object to being filmed or photographed
- Beware that the common law applies – for example laws on public order offences and defamation
- Please exercise your right to freedom of speech with responsibility – this means respecting the views of others when reporting from a meeting and not disrupting the proceedings
- Please do not edit your filming or recording of the proceedings in a way which may lead to misinterpretation
- Please show respect for those that you are filming or reporting on
- Remember you are only permitted to film, record, photograph or report from the public meeting itself (i.e. from the time it is called to order to the time it

concludes). Activity and discussion before or afterwards does not fall within the scope of the regulations

- Filming, recording, photographing or reporting is only permitted of the meeting, not of the public gallery

Signage of webcasting and other filming and recording at meetings

Agendas relating to meetings that may be webcast will include a statement to alert the public to the webcast as well as the rights of the public generally to film, record, photograph and use social media to report from the proceedings, as follows:

WEBCASTING NOTICE

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). A copy of it will also be retained in accordance with the Council's data retention policy.

The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting.

In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services on democraticservices@tendringdc.gov.uk

The Chairman of the meeting will also make an announcement at the beginning of the meeting to make sure everyone understands that the meeting will be webcast and that they may also be filmed by others in the Chamber.

Social Media comments during webcasting

The Council may use generally available platforms to show its webcast footage. When it does so, and if the platform allows for comments to be made by viewers, the Council will provide a message to make it clear that it does not monitor comments and there is no facility to pass those comments on to the attendees of the meeting.

Other provisions

Webcasting

The Chairman of the meeting has the discretion to request the termination or suspension of the webcast if continuing to webcast would prejudice the proceedings of the meeting.

This would include:

- (i) Public disturbance or other suspension of the meeting;
- (ii) Exclusion of public and press being moved and supported;
- (iii) Any other reason supported by the Council/Committee.

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is, or is likely to be, in breach of any statutory provision or common law rule, for example Data Protection and/or Human Rights legislation or provisions relating to confidential or exempt information. There may also need to be a temporary removal of webcasts while allegations of breaches are investigated. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

Any elected Member who is concerned about any webcast should raise their concerns with the Head of Democratic Services and Elections.

Other filming, recording, photographing or the use of social media for reporting from the meeting

The Chairman of the meeting has the absolute discretion to terminate or suspend filming, recording and use of social media by members of the public during a meeting if, in their opinion, the activity:

- is disrupting the meeting and impeding good decision making;
- is infringing the rights of any members of the public;
- is in danger of repeating a defamatory statement that has been made.

A.4 APPENDIX M

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) Composition

The Council comprises 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the District, or those living or working there, will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular elections.

2.03 Roles and Functions of all Councillors

(a) Key roles. All Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (iii) Effectively represent the interests of their ward and of individual residents;
- (iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (v) Be involved in decision-making for the people of the District as a whole;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law ‘need to know’ principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.

However, if the member’s motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on ‘fishing expeditions’ through their council’s documents. If a councillor is a member of a particular committee or sub-committee then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R V Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603).

- (iii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iv) For these purposes “confidential” and “exempt” information is defined in the Access to Information Rules in Part 5 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and protocols set out in Part 6 of this Constitution.

Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

~~2.06 Attendance~~

~~It is a requirement that if a Member exceeds four months without attending a meeting of the Council or of the Cabinet if appointed as a Portfolio Holder or attending a meeting of a committee or sub-committee of the Council either as an appointed member or as a substitute member thereof that shall be reported to the next Council meeting.~~