
A.4 APPENDIX A

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) 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.

2. BUDGET AND COUNCIL TAX SETTING

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

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

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

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

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- (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;
 - (xiv) To receive questions from Members in accordance with Rule 11.2; and
 - (xv) Urgent matters for Debate

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

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

4. EXTRAORDINARY MEETINGS

4.1 Calling Extraordinary Meetings

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

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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.
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.

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 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 a 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.

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.

If, at the scheduled commencement time of the meeting, there is not a quorum present, the Chairman will be permitted to delay the start of proceedings for up to a maximum period of 15 minutes. This will be in order to allow time for Members, who may have been delayed for some reason, to arrive. If, at the end of that 15 minute period, the Chairman counts the number of Members present and again declares there is not a quorum present the Chairman will declare the meeting to be null and void and cancelled for administrative purposes. The business will stand to be considered at a new time and date to be fixed by the Chairman. If the Chairman does not fix such a date, the business will be considered at the next ordinary meeting.

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. **The Chairman will decide at that point the duration of that adjournment. If it is not possible to resume the meeting on that date any** remaining business will be considered at a time and date to be fixed by the

Chairman. If ~~he~~ **the Chairman** does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

- 9.1** The business of ordinary meetings of the Council shall cease at 10.30 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

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.

10.10 Withdrawal of Question

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

11. QUESTIONS BY MEMBERS

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

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

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

Supplementary Questions will not be permitted under this rule.

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

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- 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.~~

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

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

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:

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- (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 Recording of Questions and Responses and 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.

The minutes of the meeting will record **the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate,** 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 **(including any preamble or statements in support)** 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.

Once the meeting has commenced a Member may withdraw their question with the consent of the Chairman.

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.

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 seconder 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 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;

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- (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;

- (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

(Yellow)

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

16. RULES OF DEBATE

16.1 No Speeches until Motion Seconded

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or 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 consultation, further information on the implications of the potential decision to be researched and submitted**, for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii), (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.

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- (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

- (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 on 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;
- (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 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;

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- (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.

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 Voting

A Member cannot vote on a matter if they have not been present for the whole of the consideration of that matter.

19.2 Majority

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

19.3 Chairman's Casting Vote

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

19.4 Show of Hands

Unless a recorded vote is demanded under Rule ~~19.4~~ **19.5**, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

19.5 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.

19.6 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.

19.7 Voting on Appointments

Where there is more than one person nominated and seconded for any position to be filled by the Council then unless the Council decides otherwise at the time, the person receiving most votes shall be appointed. Where there is only one person nominated and seconded, Members

will cast their votes either for or against that person. The person nominated will be appointed if the votes for are more than the votes against.

20. MINUTES

20.1 Signing the Minutes

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

20.2 Form of Minutes

Minutes of any Council, Committee or Sub-Committee meeting shall comprise a brief summary of the proceedings of, and business transacted at, the meeting. Minutes will not record details of the debate or the views or comments of individual Members. **The exceptions to this are committees and sub-committees when considering applications, hearings and appeals or receiving evidence. The Minutes of such meetings will give summarised details of the issues covered in the debate.**

No Minutes of any meeting will be produced as a verbatim record of those proceedings.

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.

Minutes will also record those instances when a Member has submitted their apologies for absence. If so requested by the Member concerned the Minutes will also record the reason for their absence.

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

(Yellow)

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

23.3 Member Not to be Heard Further

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

23.4 Member to Leave the Meeting

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

23.5 General Disturbance

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

24. DISTURBANCE BY PUBLIC

24.1 Removal of a Member of the Public

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

24.2 Clearance of Part of Meeting Room

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

25. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

25.1 Suspension

All of these Council Procedure Rules except Rules ~~19.5~~ **19.6** 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 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, 11.3-11.5, 11.7 – 11.9, **15**, 16 (excluding 16.4), 19 (excluding 19.5 and 19.7 **but including 19A**), 20 – 24 (excluding 23.1), 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.

A.4 APPENDIX B

COUNCIL PROCEDURE RULES

SECTION 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.

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.

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 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

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 and Effect

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.

The substitution will be in effect for the whole of the meeting (including any part thereof that is adjourned to, and subsequently considered at, a later date). The Substituted Member must not take their seat.

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

(Yellow)

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.

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 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.

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 visual live stream and recordings 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 **Portfolio Holder with the responsibility for Planning and the Chairman of the Planning Committee has each have** a standing invitation to attend meetings of the Planning Policy & Local Plan Committee. **and The Portfolio Holder with the responsibility for Planning will be permitted to express the views of the Executive on strategic planning issues and the Chairman of the Planning Committee will be permitted 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 12.2, moved a motion which has been referred to a Committee under Rule 12.5, he shall 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.~~

Additionally, where a Member has submitted a Motion to Council under Rule 12.2 and that motion has been referred to a Committee under Rule 12.6 or Rule 12.7 that Member will have the right to attend the relevant meeting of that Committee and present their Motion, as appropriately permitted under Rule 12.10.

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 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 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.

A.4 APPENDIX C

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

(a) Policy Framework

The policy framework means those statutory policies and plans which must be approved or adopted by the full Council and are, for the time being, the following:

- Council's Corporate Plan;
- ~~• Sustainable Community Strategy;~~
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998);
- Plans and strategies which together comprise the Local Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004);
- The plan and strategy which comprise the Housing Investment Programme (HRA Business Plan and Housing Strategy);
- Statement of Licensing Policy (Licensing Act 2003);
- Statement of Licensing Policy (Gambling Act 2005) (on the recommendation of the Cabinet who will have considered a referral from the Licensing and Registration Committee);

Other plans and strategies which the Council may decide from time to time are to be adopted by the Council as a matter of local choice as part of the policy framework, including but not limited to:

- ~~• IT Strategy and Information Governance~~
- Procurement Strategy (including the Social Value Policy)
- Climate Change Action Plan

A.4 APPENDIX D

ARTICLE 6 – OVERVIEW & SCRUTINY COMMITTEES

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

Meetings of the Committee will be held in accordance with the programme of meetings **normally** 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

The Community Leadership Overview & Scrutiny Committee will also act as the Council’s designated “crime and disorder committee” for the purposes of Section 19 of the Police and Justice Act 2006 and will have the power -

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities[*] of their crime and disorder functions;***
- (b) to make reports or recommendations to the local authority with respect to the discharge of those functions.***

** “The responsible authorities” means the bodies and persons who are responsible authorities within the meaning given by [section 5 of the Crime and Disorder Act 1998 \(c. 37\)](#) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.*

In fulfilling that function the Community Leadership Overview & Scrutiny Committee will have the power (whether by virtue of [section 9F\(2\)](#) or [21\(2\)](#) of the [Local Government Act 2000](#) or regulations made under [section 9JA\(2\)](#) or [32\(3\)](#) of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority.

The crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.

A.4 APPENDIX F – ARTICLE 13 (KEY DECISIONS)

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.

The definition of a key decision will be reviewed as part of the compilation and approval of the Council’s Governance Statement by the Audit Committee. That Committee will submit any recommendations as to amending that definition to the Portfolio Holder with responsibility for the Constitution.

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 **and the Access to Information Procedure Rules.**

Where an executive decision has been taken on a matter and that decision was treated as a key decision and made in accordance with the requirements of the Constitution then any further executive decision regarding that matter that purports to enact all or part of the requirements of that original executive decision need not be treated as a key decision.

A.4 APPENDIX F

CURRENT TERMS OF REFERENCE & DELEGATED POWERS OF THE LICENSING & REGISTRATION COMMITTEE, THE MISCELLANEOUS LICENSING SUB-COMMITTEE AND THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE

Committee	Functions and Terms of Reference	Delegated Functions
<p>Licensing and Registration Committee</p>	<p><i>Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ul style="list-style-type: none"> • Setting the Hackney Carriage Fare Scale operating within the District. • Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tendring District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976; • Recommending the Licensing and Gambling Policy Statements and Sex Establishment Policy to full Council and the Gambling Statement of Licensing Policy to Cabinet; • Power to consider, consult and consider representations in respect of an Early Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and • Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL to Full Council. 	<ol style="list-style-type: none"> 1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub-Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise the Assistant Director (Governance) except determining standard licensing conditions and determining or recommending proposed policies, which remain with the Committee. 2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery). 3. The initial, in principle, consideration of a proposal received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976) of the Council's intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the

	<p><i>The discharge of the following Part II – Miscellaneous Functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> • Power to make closing order with respect to take away food shops; and • Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> • The setting of any fees and/or charges payable to the Council for the issue of any licences (with the exception under the Scrap Metal Act 2013 where the Council has discretion over such fees and/or charges) or otherwise in relation to any of the functions falling within the remit of the Licensing and Registration Committee and its Sub-Committees. 	<p>Chairman of the Committee.</p> <p>4. The final approval and implementation of the amended Hackney Carriage Fare Scale in the circumstances where no representations have been received in response to the public notice referred to in 3 above is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p>
Committee	Functions and Terms of Reference	Delegated Functions
<p>Miscellaneous Licensing Sub-Committee</p>	<p>To consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing and Registration Committee, except where:</p> <ol style="list-style-type: none"> 1. The function relates to the Licensing Act 2003 and/or the Gambling Act 2005; or 2. The function falls within the terms of reference of another Committee or Sub-Committee, board or body; or 2. The function has been delegated to Officers of the Council. <p>In addition the Sub-Committee will exercise the following powers and duties:</p> <ol style="list-style-type: none"> 3. Consideration for recommendations to local Highway Panel and Cabinet on: <ul style="list-style-type: none"> • installation of new taxi ranks and amendments/removals to existing taxi ranks. 4. Consider appeals or objections received against the Council’s Street Trading Policy or refusal of consent by Officers. 	<p>All matters are delegated to the Assistant Director (Governance) except in circumstances where the matter:</p> <ol style="list-style-type: none"> (i) remains with the Committee or Sub-Committee or (ii) does not meet the policy criteria set by the Council (ii) officers are recommending approval contrary to a relevant adopted licensing policy.

~~6. Approval for moving Street Collections except where it is for a recognised carnival for charitable purposes which is currently delegated to Officers.~~

5. Consider appeals or objections received against Officers' refusal of Street or House Collection applications.

Committee	Functions and Terms of Reference	Delegated Functions
Premises/ Personal Licences Sub- Committee	<p>1. To consider applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 as follows:</p> <ul style="list-style-type: none"> (i) Application for Premises Licence (ii) Application for Provisional Statement (iii) Application for Variation of Premises Licence (iv) Application to vary Designated Premises Supervisor following police objection (v) Application for transfer of Premises Licence following police objection (vi) Consideration of police objections made to interim Authority Notice (vii) Determination of application for Club Premises Certificate (viii) Determination of application to vary Club Premises Certificate (ix) Decision to give counter notice following police objection or environmental health authority objection to temporary event notice (x) Application for grant of personal licence following police objection (xi) Revocation of Licence where convictions came to light after grant etc. (xii) Application for review of Premises Licence (xiii) Application for review of Club Premises Certificate (xiv) Review following Closure Order 	<p>To the Assistant Director (Governance):</p> <p>1. The approval or refusal of applications where no representations have been received</p> <p>1. All other Council functions, powers and duties in relation to the Licensing Act 2003 and the Gambling Act 2005 which do not remain the specific function of the Committee or Sub-Committee.</p>
	<p>2. To consider applications for licences, where representations have been received and not withdrawn, and applications for the review of licences, covered by the Gambling Act 2005, as follows:</p> <ul style="list-style-type: none"> (i) Application for Premises Licence (ii) Application for variation of Licence (iii) Application for transfer of a Licence (iv) Application for a Provisional Statement (v) Review of a Premises Licence (vi) Application for Club Gaming/Club Machine Permit (vii) Cancellation of a Club Gaming/Club Machine Permit (viii) Decision to give a Counter Notice to a Temporary Use Notice (Section 224) (ix) Matters referred to the Sub-Committee by Officers, notwithstanding the delegations set out opposite. (x) Application for Prize Gaming Permit 	

	(xi) Application for Family Centre Gaming Machine Permit	
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A.4 APPENDIX G

PLANNING COMMITTEE: CURRENT TERMS OF REFERENCE AND DELEGATED POWERS

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific 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.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee. 	<p>All planning and conservation matters delegated to the Assistant Director (Planning) except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <ol style="list-style-type: none"> (i) Officer recommendations for approval materially contrary to national or local policy. (ii) Officer recommendation of approval contrary to a previous refusal by the Planning Committee, where the policies remain substantially unchanged. (iii) Office recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or "call in". (iv) The applicant is the Council or someone acting as applicant on the Council's behalf or in respect of Council owned land. (v) The applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation for approval. (vi) Within 28 35 days of the commencement of

		<p>formal consultation, a written request is received from a Tendring District Councillor in accordance with the Member Referral Scheme(*) requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.</p> <p>(*) Scheme to be approved by Full Council</p> <p>(vii) Any application which the Assistant Director (Planning) in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</p>
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	<p><i>The discharge of the Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the District Council’s responsibility as specified 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.</i></p> <p><i>The discharge of the following Miscellaneous functions – Part II – relating to hedgerows, trees and hedges as specified 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.</i></p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p> <p>All hedgerows, trees and hedges matters delegated to the Assistant Director (Planning)</p>
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A.4 APPENDIX H

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. OVERVIEW AND SCRUTINY COMMITTEES

The Council will have two Overview and Scrutiny Committees (“the Committees”), which together will perform all overview and scrutiny functions on behalf of the Council. They will each consist of ~~eleven~~ **nine** members, who will be appointed by the full Council (**normally**) at its annual meeting. Their terms of reference and functions will be as set out in Part 2, Article 6 of the Constitution.

2. MEMBERSHIP

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved in making.

3. CO-OPTED MEMBERS (WITHOUT VOTING RIGHTS)

Each Overview and Scrutiny Committee shall be entitled to appoint people as Co-opted Members (without voting rights) as considered appropriate to enable them to perform their overview and scrutiny functions. The duration of the appointment will be determined by the Committee. In addition, the Council may determine which groups or bodies should be represented on a particular Committee by Co-opted Members (without voting rights).

4. MEETINGS OF THE COMMITTEE

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.

Programmed meetings may also be cancelled, following consultation with the Committee's Chairman, where the business to be transacted would not warrant the holding of the meeting as originally envisaged.

5. QUORUM

The quorum for the Committee shall be as set out in Part 4 (Council Procedure Rules).

6. CHAIRMEN

The Chairmen of the Committees shall be appointed as set out in Part 4 (Council Procedure Rules).

The Chairmen of the Overview and Scrutiny Committees will meet with the Head of Democratic Services & Elections and ~~appropriate Heads of Service or~~ relevant officers to co-ordinate the business of the relevant Committees and determine which Committee will assume responsibility for any particular issue. **In consultation with the Chairmen of the two Committees, it may be proposed that a joint Panel or Group be established by the Committees.**

7. WORK PROGRAMME

Each Overview and Scrutiny Committee will submit a work programme for the year ahead and a review of the previous year's activities to the Council for approval. In addition, it will be responsible for co-ordinating and prioritising its work programme on an ongoing basis.

In preparing, co-ordinating and prioritising its programme, each Overview and Scrutiny Committee will take into account:-

- The General Role and Principles of undertaking its functions, as set out in Part 2 Article 6
- the planned work on the preparation of elements of the Budget and Policy Framework; ~~as set out in the Council's Business Plan;~~
- the need for statutory timetables to be met;
- the **expressed** wishes of ~~all the~~ members of the committee;
- requests from the Cabinet to carry out reviews **and/or suggestions from the liaison meetings held under the Cabinet-Overview & Scrutiny Protocol;** and
- requests from **Members and/or** Group Leaders in accordance with Rule 8.

8. AGENDA ITEMS

Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Democratic Services & Elections that they wish an item relevant to the terms of reference and the functions of the Committee **(but with the exception of matters relating to crime and disorder)** to be included on the agenda for the next meeting of that Committee. Such notice must be given by delivering it, in writing (or by personal e-mail) to the Head of Democratic Services & Elections no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services & Elections will ensure that the item is included on the agenda.

Any such request by Members will be considered at the next available meeting where the Committee will decide if the item should form part of the work programme.

The Leader of any political group may request that an item be included on the Overview and Scrutiny work programme. The relevant Overview and Scrutiny Committee will consider the

request on the agenda and determine at its meeting, whether the item is appropriate for inclusion on the work programme.

The relevant Overview and Scrutiny Committee will respond, as soon as their work programme permits, to requests from the Council and if it considers appropriate, the Cabinet to review particular areas of Council activity. Such referrals will be accompanied by Council/Cabinet's view on the matter under consideration to assist the relevant Overview and Scrutiny Committee in effective investigation of the matter. Where they do so, the relevant Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or Cabinet shall consider the report at its following meeting.

In addition to the above, any member of the Authority who is not a member of the Council's designated crime and disorder committee (i.e. the Community Leadership Overview & Scrutiny Committee) can refer any local crime and disorder matter to that committee for its consideration in accordance with the legislative requirements. Such a reference must be given by delivering it, in writing (or by personal e-mail) to the Head of Democratic Services & Elections no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services & Elections will ensure that the item is included on the agenda. Any such reference by a Member will be considered at the meeting concerned where the Committee will decide how to proceed with the reference (within the legislative requirements).

9. COUNCILLORS CALL FOR ACTION

The Councillors Call for Action is an additional means for Councillors to raise issues of local community concern, for consideration by the Council's overview and scrutiny function, on behalf of residents. A Councillors Call for Action should only be raised where other means of resolving the matter have been exhausted.

- (a) Any Member of the Council may raise a Councillors Call for Action, which should be sent to the Council's Head of Democratic Services & Elections.
- (b) Once the Councillors Call for Action is received, the matter must be considered by the relevant Overview and Scrutiny Committee, whose terms of reference the matter falls within and they must endeavour to consider the matter within a reasonable timescale. Where the matter falls within the terms of reference of more than one Committee, the Chairmen of the Committees will determine the most appropriate Committee to deal with the matter, except where the matter relates to a crime and disorder issue where all such matters must be considered by the Overview and Scrutiny Committee responsible for crime and disorder matters.
- (c) If a Councillors Call for Action is deemed not to be valid, a letter will be sent to the Member concerned informing them of the reasons for this. Where the issue has been deemed not to be valid because other methods of resolution have not been exhausted,

the Call for Action may be re-submitted, if necessary, once the Councillor concerned has pursued the matter further.

10. PROCEDURE AT COMMITTEE MEETINGS

(a) The Committees shall consider the following business:

~~(i) Minutes of the last meeting;~~

~~(ii) Declarations of Interest;~~

~~(iii) Questions raised on forthcoming executive decisions in accordance with Rule 13;~~

~~(iv) Responses of the Cabinet to reports and/or recommendations (the "recommendations monitoring report") of the Overview and Scrutiny Committee;~~

~~(v) Responses of the Cabinet to called-in decisions referred for reconsideration;~~

~~(vi) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;~~

~~(vii) its Work Programme (having due regard to the General Role and Principles as set out in Article 6 of the Constitution); and~~

~~(viii) The business otherwise set out on the agenda for the meeting.~~

(i) Minutes of the last meeting;

(ii) Declarations of Interest;

(iii) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;

(iv) Any Councillors Call for Action raised in accordance with Overview and Scrutiny Rule 9;

(v) Questions submitted pursuant to Council Procedure Rule 38;

(vi) Work Programming Issues (having due regard to the General Role and Principles as set out in Article 6 of the Constitution) which shall include:

(1) Matters raised by a Member/Group Leader under Overview and Scrutiny Rule 8;

(2) Questions raised on forthcoming executive decisions in accordance with Overview and Scrutiny Procedure Rule 13;

(3) Responses of Council/Cabinet/Partners to reports and/or recommendations of the Overview and Scrutiny Committee;

(Cream)

(July 2020) Part 5.22

(4) Responses of the Cabinet to called-in decisions referred for reconsideration; and

(5) Summary of forthcoming (and completed) enquiries as directed by Council or otherwise approved by the Committee for that year.

(vii) Interim and/or Finalised Reports from Task and Finish Groups on enquiries undertaken by those Groups; and

(viii) The business otherwise set out on the agenda for the meeting.

(b) Where an Overview and Scrutiny Committee undertakes researched and evidence reviews on a specific topic, on a task and finish basis (e.g. with a view to policy development), the relevant Committee may also ask people to attend to give evidence at the Task and Finish Group meetings that are to be conducted in accordance with the following principles:

(i) that the terms and reference of any Task and Finish Group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement;

(ii) consideration being given to the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny;

(iii) that the reviews be conducted fairly and all members of the Task and Finish Group be given the opportunity to ask questions of attendees, and to contribute and speak;

(iv) that those assisting the Task and Finish Group by giving evidence be treated with respect and courtesy; and

(v) that the review by the Task and Finish Group be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any Task and Finish review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

11. POLICY REVIEW AND DEVELOPMENT

(a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules within this Constitution.

(b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, each Overview and Scrutiny Committee may make proposals or act as consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.

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- (c) Each Overview and Scrutiny Committee where relevant to their terms of reference, may ~~investigate~~ **undertake enquiries into** the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. **Enquiries may involve Councillors going** ~~They may go~~ on site visits, conducting public surveys, holding public meetings, commissioning research and doing all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so **(subject to the appropriate budget being available)**.
- (d) **To assist Members of Overview and Scrutiny Committees to develop appropriate approaches to individual enquiries (and support officers in their role for individual enquiries), the Head of Democratic Services & Elections may (from time to time) issue practice guides on such approaches.**
- (e) Where resources permit, each Overview and Scrutiny Committee may establish, task and finish groups to undertake the matters in (c) above and to gather the evidence in the ways set out. Likewise, **enquiries may also be conducted through informal meetings of the Members of the Committee, scrutiny days and off agenda briefings.** Joint task and finish groups (which may be styled panels) may be formed, where necessary, by two Overview and Scrutiny Committees in agreement to examine subjects that are, in part, in both of the terms of reference for those Committees.

Membership of task and finish groups will not be limited to members of the relevant Overview and Scrutiny Committee (s). While they are not subject to the political balance rules that apply to formal Committees/Sub-Committees of the Council, from among the nominees for a particular task and finish group regard will be given to the broad overall political balance of the Council when determining the membership of the group.

- (f) **All enquiries undertaken away from a formal meeting of the relevant Overview and Scrutiny Committee will conclude with a final report to that Overview and Scrutiny Committee. It will be for that Committee to determine the finalised report and recommendations arising from the enquiry. An enquiry can identify the need for an interim report, ahead of the final report, and this too will be subject to consideration by the relevant Overview and Scrutiny Committee.**

If Full Council has directly requested a report on that matter then the final report will be submitted to Full Council for its determination.

12. REPORTS FROM AN OVERVIEW AND SCRUTINY COMMITTEE

- (a) Specific evidence based reports from an Overview and Scrutiny Committee that contain recommendations on proposals for development, will be submitted formally for

consideration by Cabinet **(or to Full Council directly (if appropriate) from the "crime and disorder committee" or otherwise if Full Council has directly requested a report on that matter)**. If the proposals would involve a change to the existing Budget and/or Policy Framework, the Cabinet will consider the matter and make a recommendation to Full Council. The report will be drafted by Officers and agreed by the relevant Chairman in respect of the proposals from the relevant Overview and Scrutiny Committee.

~~(b) — If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council, the report may refer to the contrary views of a Member, if the Member concerned specifically requests this.~~

(b) The Cabinet shall consider the report from the relevant Overview and Scrutiny Committee at the next meeting of the Cabinet for which the agenda has not yet been published.

(c) In addition to making recommendations on specific proposals for development, the Overview and Scrutiny Committees may make more general comments/suggestions regarding matters they have considered, which they would like the relevant Cabinet Member to consider and take appropriate action. In such instances, a copy of the relevant minute will be sent to the Cabinet Member.

(d) Where specific evidence-based recommendations on proposals for development from the Overview and Scrutiny Committees relate to matters that are the responsibility of Partner Authorities and organisations, notice in writing by way of a formal report will be provided to the relevant Partner Authority or organisation requiring them to have regard to the recommendations. The Partner or organisation will be requested to respond to the relevant Committee within two calendar months setting out action, if any, that is to be taken in response to the recommendations.

~~(f) — On occasions, matters may be referred to Overview and Scrutiny from Council. On such occasions, the Chairman of the relevant Overview and Scrutiny Committee will respond to the request, be this via an Overview and Scrutiny Committee or a Task and Finish Review Group. Upon concluding the necessary work, the matter and any recommendations made by the Overview and Scrutiny Committee will be referred to the Cabinet for consideration. The matter, along with the recommendations of the Overview and Scrutiny Committee, and any comments or recommendations of the Cabinet shall be referred back to Full Council for consideration.~~

13. **SCRUTINY OF PROPOSED AND RECENT DECISIONS**

The Overview and Scrutiny Committees will, at their ordinary meetings, review the new and/or amended forthcoming decisions relevant to their terms of reference. If they wish to enquire into any forthcoming decisions, such an enquiry might consist of questioning members of the Cabinet and Officers, and seeking the views of local stakeholders and/or other interested parties. The

Cabinet will take into account any recommendations expressed by the relevant Overview and Scrutiny Committees when determining the final decision and record their response within any report and/or decision.

Matters may only be raised on the forthcoming decisions at Committee meetings where the Member has notified the Head of Democratic Services & Elections in writing (or by personal email) of the question they wish to ask, no later than Midday, two working days before the day of the meeting.

The Overview and Scrutiny Committee shall also be provided with a list of decisions by Cabinet/an individual Portfolio Holder taken since the Committee's last ordinary meeting and which that previous meeting had not itself had notice of in the record of forthcoming decisions. As such, if after preparation of the agenda for an ordinary meeting of an Overview and Scrutiny Committee notice of a proposed decision is given and the decision then is taken prior to the following ordinary meeting of the Committee, that second meeting of the Committee will be advised of the decision. This list is for the purpose of completeness and to inform the work programme discussion of the Committee. Other than informing this process the Committee may only note the list.

14. RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of the Overview and Scrutiny Committees in fulfilling their functions have the right to documents, and as provided for in Access to Information Procedure 20 (Rights of Overview and Scrutiny Members).
- (b) This would not prevent more detailed liaison between the Cabinet and any Overview and Scrutiny Committee as 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:

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- (i) any particular decision or series of decisions (excluding decisions made **as a consequence of a hearing/decision on an application** by the Planning, Licensing and Registration, Audit, Human Resources and Council Tax or Standards Committees or Sub-Committees/Panels of those 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).
 - (f) **In this paragraph, reference to an Overview and Scrutiny Committee includes enquiries undertaken through informal meeting of Members of the Committee, task and finish groups, scrutiny days and off agenda briefings etc.**

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

All such invitations will be made through the Head of Democratic Services & Elections, in his capacity as the Council's designated Scrutiny Officer (Article 12 of the Constitution), so that a consistent and co-ordinated approach to invitations can be maintained. All such requests from individual Members shall be referenced to the Head of Democratic Services & Elections. This approach shall be followed in respect of less formal overview and scrutiny enquiries (such as through task and finish groups).

17. CALL-IN

(Cream)

(April 2022) Part 5.26

When a decision is made by the Cabinet, or an individual member of the Cabinet, the decision is published, normally within five working days of being made. The Chairman of the relevant Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Decisions will also be sent to all Members.

That notice will include the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called-in.

- (a) The rules applying to call-in are:
- (i) All executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), may be called-in, subject to the exceptions outlined in Procedure Rule 18;
 - (ii) Prior to holding a call-in, the callers-in are expected to attempt to resolve the matter through informal mediation, together with the relevant Cabinet Member and/or the Leader of the Council, if appropriate to do so;
 - (iii) The Committee Services Manager, will process call-in notices received from:
 - a. The Chairman of the relevant Overview and Scrutiny Committee; or
 - b. Three Non-Cabinet Members of the Council.

All valid call-in notices will be referred to the relevant Overview and Scrutiny Committee for determination and the decision-maker will be notified of the call-in.
 - (iv) A notice of call-in must be made on the appropriate prescribed form or email (so long as the email addresses the relevant information required) and must be received within five working days of the date of publication of the decision. Use of the prescribed form is encouraged, and should be completed in full, with reference to the criteria for submitting call-in requests and stating the reasons why the issue needs to be scrutinised.
 - (v) Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in; and
 - (vi) Any decision can only be called-in once.
- (b) Those seeking to call-in a decision shall be required to state their reasons, in accordance with the criteria set, in the call-in notice form based on one or more of the following seven assessment criteria. These seven criteria are as follows:

-
- (i) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures.
 - (ii) The decision is contrary to the Council's Budget or Policy Framework.
 - (iii) The decision is not consistent with Council policy.
 - (iv) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.
 - (v) The decision is contrary to a previously agreed decision made in Full Council, which has not been superseded by a subsequent decision.
 - (vi) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision.
 - (vii) The decision was not taken in accordance with the principles set out in Article 13 (Decision-Making) of the Constitution.

(c) **Mediation Process**

- (i) Those seeking to call-in a decision shall state, when providing their reasons in the call-in notice, whether they wish to enter into mediation with the relevant Cabinet Member(s) and if so, what element of the decision and/or further information would they wish to discuss as part of the mediation.
- (ii) Once those seeking the call-in have provided this information, the relevant Cabinet Member(s) must respond and confirm whether they wish to engage with the mediation process.
- (iii) Upon confirmation that the parties wish to mediate, Committee Services will set up a mediation, at which Officer(s) with knowledge of the background to the decision can attend to assist with providing or clarifying any information.
- (iv) The mediation meeting must be held no later than three working days before the date of any meeting arranged to allow consideration of the call-in by the relevant Overview and Scrutiny Committee.
- (v) The Council's Monitoring Officer and/or Section 151 Officer (or their appointed deputies) may attend the mediation meeting at their individual discretion.
- (vi) The Officer from Committee Services attending the mediation, will within 24 hours, produce a note for circulation to all parties to the meeting for approval. That note must include any and all assurances given by, or agreements reached with the Cabinet Member(s).
- (vii) Once those assurances or agreements are subsequently confirmed as being acceptable by all parties in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

The Mediation Process does not preclude the relevant Cabinet Member(s), upon being made aware of the call-in and the reasons for it, making an immediate, unilateral undertaking to amend or rescind their decision or undertake any other appropriate action. Committee Services will inform the callers-in of such unilateral undertaking and ask if they are satisfied by that undertaking. If the callers-in confirm the undertaking as being acceptable to them in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

- (d) The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Overview and Scrutiny Committee, who must meet to consider the matter within 15 working days from the date following receipt of the call-in notice.

If the relevant Committee does not meet within this period, the decision shall take effect on the expiry of the 15 working day period. The Chairman of the relevant Overview and Scrutiny Committee is under an obligation to ensure that the meeting is held within 15 days.

If the relevant Overview and Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Overview and Scrutiny Committee.

- (e) At the meeting to consider the call-in notice, the Overview and Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.
- (i) The layout of the meeting will provide separate tables for both the callers-in and the relevant Cabinet Member to sit at for the item of the call-in.
 - (ii) Stage One of the meeting – the Councillor(s) requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
 - (iii) Stage Two – the decision-maker (relevant Cabinet Member and relevant officer) shall establish the reasons behind the decision and can determine whether it should be referred back to the Cabinet Member for consideration.
 - (iv) Stage Three – Questions can be asked by:
 - a. The callers-in;
 - b. The relevant Cabinet Member or relevant Officer; and
 - c. The Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.

- (f) It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.
- (h) Participation in the general debate will not be permitted but the callers-in and relevant Cabinet Member may answer questions or points of clarification arising through the debate, at the discretion of the relevant Chairman.
- (i) On considering the matter, the Committee will decide whether or not to ask the decision-maker to reconsider its decision.
- (j) If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Committee considers the executive decision is contrary to the Budget or Policy Framework; the Committee may refer the matter to the next practicable meeting of the Council, subject to the provisions of Council Procedure Rules.
- (k) If the relevant Overview and Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 15 working days following the meeting of the relevant Overview and Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader of the Council or relevant Portfolio Holder for consideration. In that circumstance the Leader of the Council or relevant Portfolio Holder shall be required to reconsider the decision within 15 working days.
- (l) If the Overview and Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and take effect immediately following the meeting of the Committee.
- (m) If the matter is referred to Council, who do not object to the decision, the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision. The decision-maker shall, within a further 15 working days, choose whether to amend the decision or not before reaching a final decision and implementing it.
- (n) **Decisions referred back to the Decision Maker**

The comments and views provided by Council or the relevant Overview and Scrutiny Committee when referring a decision back for reconsideration shall be final and no further representations shall be made to the decision-maker.

The decision-maker will send a report to the relevant Overview and Scrutiny Committee, once a decision has been reconsidered, and that report should include the reason why

the decision-maker has either reconfirmed the original decision or why the decision has changed.

(o) **Withdrawal of a Call-in**

A request to call-in a decision may be withdrawn in writing (or by personal email) at any time by one of the Members making the request.

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

(i) Urgent Decisions

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the relevant Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

(ii) Other Exceptions

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.
- (b) Recommendations from Cabinet to Council.
- (c) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.
- (d) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.
- (e) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the

relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

- (iii) The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 15 of this Constitution and a report submitted to Council with proposals for review if necessary.

A.4 APPENDIX I – FINANCIAL PROCEDURE RULES

6.3 Virements

6.3.1 A virement, unlike a supplementary estimate, will not increase the Council's overall net expenditure. However to ensure that the budget, functions and service levels approved by Council are not compromised virements can only be undertaken under the following conditions.

6.3.2 Virement rules do not need to be followed in the following circumstances but a scheme will still need to be approved including agreement of what is to be delivered:-

- (a) Where expenditure is being funded entirely by income received under section 106 agreements and that income has been received and accounted for in the current financial year and where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years. In these circumstances the Chief Financial Officer must agree the expenditure and the financing.

If there are additional costs to the Council then that expenditure must be financed in accordance with these Financial Procedure Rules.

- (c) Subject to agreement of the Chief Financial Officer:
 - (i) Where a decision requires an amendment to the budgetary analysis within the Council's financial information system in order that the Council's accounts can properly reflect the financial transactions of that decision.
 - (ii) Where the budgetary analysis within the Council's financial information system need to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.

(iii) If not subject to any separate delegation, where a budget has been established via an earlier decision of Cabinet / Full Council, any subsequent itemised expenditure from that budget (rather than a transfer between budget headings which would require a virement), in such circumstances, an Officer decision will be required following consultation with the relevant Portfolio Holder.

A.4 APPENDIX J

PROPERTY DEALING PROCEDURE

1. NEGOTIATION OF PROPERTY DEALS

- 1.1** Property Deal means the acquisition or disposal by the Council of any interest in land, including freehold, leasehold, by way of tenancy, any rent review, lease variation, lease renewal or any other dealing or proposed dealing with an interest in land or licence to use land.
- 1.2** Members must not engage in negotiations of any kind relating to any Property Deal or proposed Property Deal.
- 1.3** Every request to the Council from any party for a deal within this procedure shall be referred to the Assistant Director (Building & Public Realm), or, by the Chief Executive, to a Corporate Director.
- 1.4** Every Property Deal shall be conducted in accordance with the Property Dealing Procedure, excluding the sale of dwellings under right-to-buy legislation, the sale and purchase of Shared Equity and DIYSO properties, and arrangements for utilities to be provided on Council owned land.
- 1.5** Any Property Deal will be dealt with by appropriate officers in accordance with the Property Office Procedures to be agreed from time to time by the Assistant Director (Building & Public Realm) with the Council's Section 151 and Monitoring Officers. The Property Office Procedures set out the practice to be followed by any Officer acting under delegated powers.

2. PROPERTY OFFICE PROCEDURE

- 2.1** "Property Office Procedure" means all applicable steps of the Property Office Procedure at the time being.
- 2.2** The Assistant Director (Building & Public Realm) will ensure that adequate office procedures are agreed with the Section 151 and Monitoring Officers and maintained. The Property Office Procedures must include appropriate controls on the conduct of Property Deals. The Property Office Procedure should contain other procedures and guidance on the management of property by other parts of the Council.

- 2.3** **In relation to those instances where a Portfolio Holder is the decision maker, the Assistant Director (Building & Public Realm), in consultation with the Monitoring Officer, the Section 151 Officer and the Head of Internal Audit, will ensure that there is an adequate set of formal principles for decision making in place and maintained. This set of principles should be set out in:-**

the Property Strategy; or

the Housing Strategy; or

the Housing Acquisitions Policy; or

the Commercial Investment Property Policy.

It should also enable the Portfolio Holder to demonstrate that they have assessed the deal against the principles. Where the deal is not in accord with the Property Strategy or the Housing Strategy or the Housing Acquisitions Policy or the Commercial Investment Property Policy, as appropriate, it will be referred to the Cabinet for determination.

3. VALUATIONS

3.1 In relation to Property Deals and to any appropriation of land the Assistant Director (Building & Public Realm) will carry out or obtain appropriate valuations proportionate to the open market value or rental:

<u>Type of Deal</u>	<u>Valuation(s) Required</u>
Licences and Tenancies at Will	Officer valuation to be prepared and retained
Leases, interests and freeholds up to £100,000 £300,000	One full external professional valuation to be obtained
Leases, interests and freeholds over £100,000 at £300,000 or over	Two A full external professional valuation to be obtained, plus a further valuation at the Property & Projects Manager's discretion, if deemed necessary in their professional opinion.
As above but in any ransom or other circumstances where the seeking of two valuations would be impractical in the opinion of the Assistant Director (Building & Public Realm)	One full external professional valuation to be obtained. Assistant Director (Building & Public Realm) to include reasoning in the report for decision.

3.2 The decision to initiate the Property Dealing Procedure will be taken by the Corporate Director (Operations and Delivery). In those instances where the decision involves a Freehold Acquisition or Disposal that decision to initiate the Property Dealing Procedure will be taken by the Corporate Director in consultation with the relevant Portfolio Holder.

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 (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 is £100,000 or over but less than £300,000				
10. Freehold property interest is £300,000 or over				
11. Decision whether to continue to pursue a transaction as an appropriate course of action, including under the General Disposal Consent Order, and in				

situations where the agreed price differs substantially from the valuation advice received				
12. Any disposal of open space where objections have been received				
13. Any disposal at less than the Best Consideration Reasonably Obtainable				
14. 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)				
15 Extensions to Shared Equity Leases (Leasehold Reform Act 1967 – Deed of Variation to alter rent to a modern rent with no premium paid)				

*Subject to access to information rules.

Note: The relevant Portfolio Holder will be determined by whether the property sites, or will sit, within the General Fund or the Housing Revenue Account. Greyed box indicates level of decision making.

A.4 APPENDIX K**SECTION 1 – SECTION SUMMARY****1.0 Procurement rules are set out across the following sections:**

- SECTION 1 - General Requirements
- SECTION 2 – Exemptions from Procedure Rules
- SECTION 3 – The Procurement Framework and Central Purchasing
- SECTION 4 – Quotation and Tenders

- 4.1 General Requirements
- 4.2 Quotations (*Procurement up to £50,000*)
- 4.3 Tenders (*Procurement over £50,000*)
 - 4.3.1 Selecting Suppliers
 - 4.3.2 Open Competitive Tenders
 - 4.3.3 Selective Tenders
 - 4.3.4 The number of suppliers invited to tender
 - 4.3.5 Going out to Tender
 - 4.3.6 Receipt of Tenders
 - 4.3.7 Opening of Tenders
 - 4.3.8 Acceptance of Tenders
 - 4.3.9 Tender Evaluation Panel

- SECTION 5 – Other Procurement Rules
- SECTION 6 – Official Order Rules

SECTION 1 – GENERAL REQUIREMENTS**1.1 Before undertaking any procurement, Departments should satisfy themselves that:**

- The works, goods or services are required and a need can be demonstrated
- There are no reasonable alternatives e.g. sharing or utilising spare capacity/inventories elsewhere within the Council
- **They are aware of the current statutory contract value thresholds in accordance with the Public Contract Regulations 2015 (as amended) as shown on PING**
- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements:-
 - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*
 - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

Procurement Procedure Rules apply to the procurement of ALL goods, works or services. The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

Procurement can only take place where budgetary provision is available to fund the goods, works or services required (see Financial Procedure Rules).

Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Corporate Director/Head of Department entering into that contract will be required to ensure that the third party complies with the requirements of these Procurement Procedure Rules.

Where the Council enters into or administers a contract either as an agent, or on behalf of another public body the Council's Procurement Procedure Rules will apply unless written instructions have been received by the Council to the contrary.

These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.

Delegation relating to the engagement of consultancy services is set out separately within the "Common to all Portfolio Holders" section of the Constitution. However, for completeness, the Corporate Directors/Heads of Department only have delegated authority for the engagement of consultancy services or specialist professional advice up to the value of £15,000 and procurement rules must be followed. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.

Procurement within the Council is co-ordinated by ~~Finance, Benefits and Revenue~~ **Governance Services** and in all cases where catalogues or other pre-negotiated approaches are not used, then consultation with the ~~Finance, Benefits and Revenue~~ **Governance Services** should be undertaken to identify potential alternative options or additional procurement opportunities.

Where building works form part of the procurement, then it is expected that Departments will discuss their requirements with the internal surveyor as appropriate.

1.2 Use of Local Suppliers

All Procurement should be in line with the Council's Procurement Strategy which includes the recognition of the use of local suppliers and providing a fair basis for them to compete for the provision of goods, works and services required by the Council.

SECTION 2 – EXEMPTION FROM PROCUREMENT RULES

2.1 The Corporate Directors/Heads of Department shall be exempt from the need to obtain competitive quotations/prices where any of the following circumstances apply:-

- (a) The goods or services are procured from an in-house service
- (b) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price

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- (c) The matter is one of urgency as determined by the appropriate Corporate Director/Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.
 - (d) The contractor or supplier is specified for works to this Council for which an external client is making payment.
 - (e) Where the work is of a specialist nature and the Corporate Director/Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.
 - (f) For the engagement of Counsel by the Assistant Director (Governance).
 - (g) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director/Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation will be issued will take the form of a contract variation as determined in the partnership contract and/or via the Official Ordering rules or if appropriate the documentation to be issued will be as required by the Procurement Procedure Rules for the value of the procurement. *(EU limits must be observed to ensure no thresholds are exceeded)*.
 - (h) For purchases from petty cash.

In all cases where an exemption is applied the Corporate Director/Head of Department shall maintain a record to evidence this.

2.2 Further exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.

- (a) Where no specific exemption is provided above:
 - Where the value of the contract or procurement is estimated to be less than £50,000 exemption may be granted by the Chief Financial Officer in consultation with the Corporate Finance & Governance Portfolio Holder. **The procuring service must publish an Officer Decision to record this.**
 - Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Corporate Finance & Governance Portfolio Holder may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a formal Portfolio Holder decision must be made.
 - Where the total contract, or procurement, is estimated to exceed £250,000, the Cabinet, or a Committee may, on the recommendation of the Chief Financial Officer, grant exemption.

In such cases a record of the exemption must be made in the minutes of the Cabinet, or Committee.

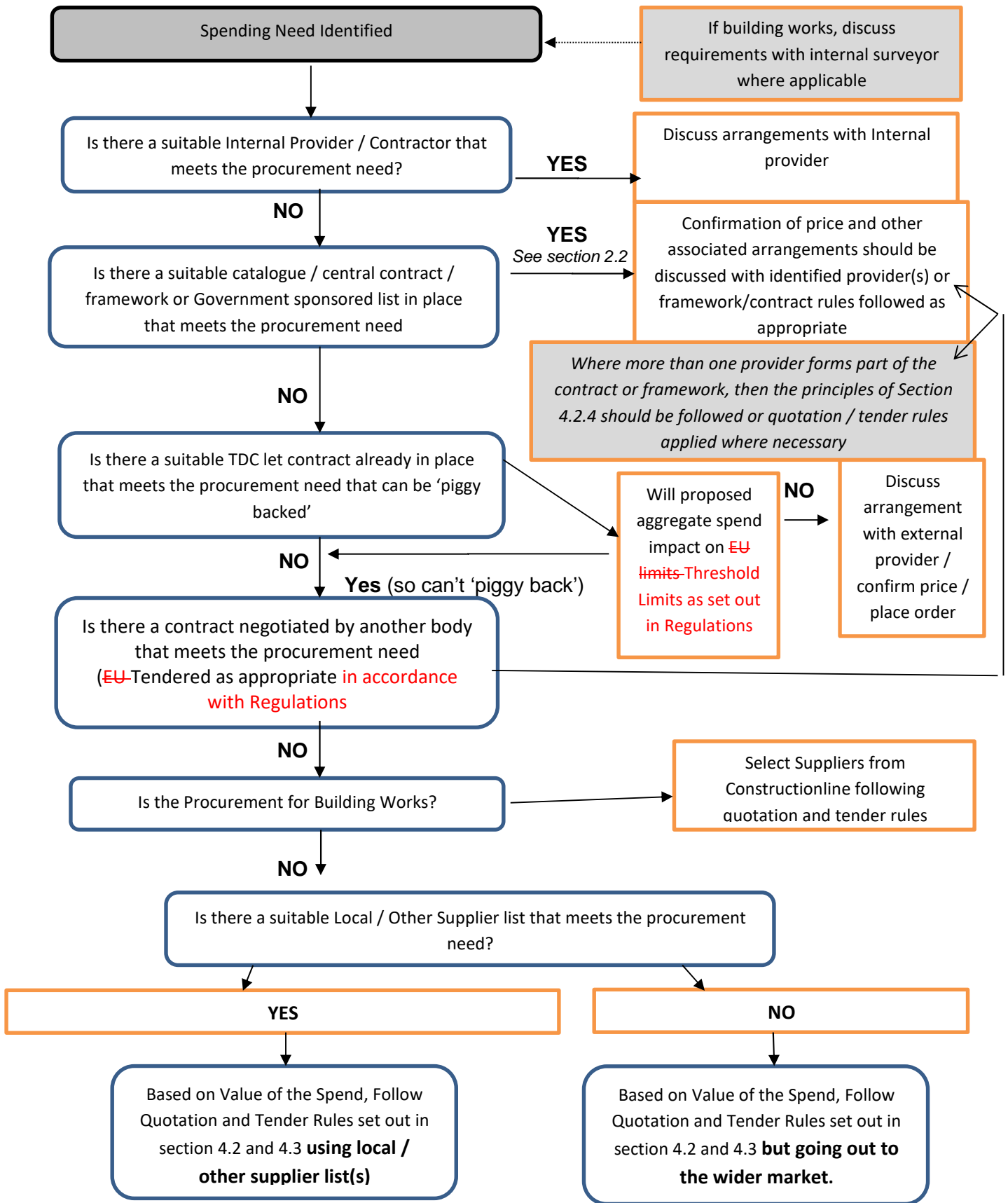
2.3 Alternative/Indirect Service Delivery

Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within Procurement Procedure Rules given the number and combination of different procurement routes and processes that may be applicable, but must:-

- (i) Comply with all relevant statutory provisions including European Procurement Directives.
- (ii) Follow a documented process determined by the responsible Corporate Director/Head of Department, the Chief Financial Officer and the Assistant Director (Governance), and agreed by Management Team and the Cabinet, in advance of the process. The process must demonstrate compliance with the principals of openness and accountability.
- (iii) Be capable of providing clear probity trails, particularly in respect of the opening and evaluation of any associated bids or tenders.
- (iv) Comply with any Procurement Procedure Rules that remain applicable, or offer alternatives that meet the requirements of ~~the Chief Financial Officer and~~ the Assistant Director (Governance).

SECTION 3 – THE PROCUREMENT FRAMEWORK

- 3.1 All procurement is expected to following the following process/framework taking each step in sequence noting that the overall value of procurement is not the initial consideration. ~~Finance, Benefits and Revenue Governance~~ Services should be consulted at the relevant stage of the process as necessary.



(Cream)

3.2 Central Purchasing

This includes:

- Central Contracts – Where the Council has taken advantage of negotiating with an external provider for the supply of goods, works or services.
- Partnership Agreements – Where the Council has decided to enter into partnership agreements either directly with other public bodies, or as part of a consortium of public bodies, for the procurement of goods, works or services.

Procurement Procedure Rules will be followed to select the supplier/contractor to be used for central contracts or if this Council is undertaking the tendering process to select the supplier/contractor under a partnership approach.

- Specialist call-off contracts - Where contracts have been tendered/negotiated by other public bodies and include the option for other Public Bodies to participate.

If the use of any such contract is not considered to offer Value for Money, then the relevant Corporate Director/Head of Department should consult with ~~Finance, Benefits and Revenue Services~~ **the Chief Financial Officer and the Assistant Director (Governance)** in order to identify the most appropriate/advantageous procurement route.

SECTION 4 – QUOTATIONS AND TENDERS

4.1 General Requirements

- (a) Disaggregation of any procurement, in order to apply a lower level to each of the parts is not permitted.
- (b) Where any procurement spans a number of periods, or years, the total estimated cost will be the cumulative total of all periods, or years covered.
- (c) The use of electronic “portals” or other electronic means must be used to widely advertise goods, works or services required by the Council where appropriate, to ensure equal opportunity between local and non-local suppliers.
- (d) Procurement **up to £50,000** (excluding VAT) – **Quotation Rules Apply (Section 4.2).**
- (e) Procurement **over £50,000** (excluding VAT) – **Tender Rules Apply (Section 4.3).**

4.2 **QUOTATIONS** (Procurement up to £50,000 excluding VAT)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.2.1 Procurement up to £10,000 (excluding VAT)

Where procurement is less than £2,500 then value for money should be demonstrated by obtaining two prices where possible.

Where procurement is in excess of £2,500, the seeking of two prices would be expected, with evidence retained by the department.

4.2.2 Procurement over £10,000, but not expected to exceed £50,000 (excluding VAT)

A minimum of three quotations should be sought by the department in addition to the production of a documented specification to include:

- (i) Identification of the procurement of goods, works or services required.
- (ii) Identification of any periods over which the goods, works or services are to be provided. In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
- (iii) Provision for the retention of stated sums/percentages and the retention period to be applied where appropriate.
- (iv) Provision for the contractor to provide a performance bond, or parent company guarantee where appropriate.
- (v) Unless an exemption is obtained from ~~the Assistant Director (Finance & IT)~~ or the Assistant Director (Governance), the Council Standard Contract for Services must be used when seeking quotations for £25,000 and above. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought.
- (vi) All contractors or suppliers asked to provide a quotation must be advised that the quotation must be sent to a specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.

4.2.3 All quotations shall be sought electronically:

The responsible Corporate Director/Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of quotation opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Where the lowest quotation received exceeds £50,000 (excluding VAT), Tender Rules shall be followed from that stage as if tenders had been sought.

If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Corporate Director/Head of Department must seek sufficient further quotations applicable to the level of the value of that lowest quotation.

4.2.4 The Corporate Director/Head of Department is under no obligation to accept any of the quotations. However where they are prepared to accept a quotation, the most financially advantageous quotation should be accepted unless other factors such as quality, local supply, performance and deliverability are also considered as part of the selection process, **in accordance with the Council's overall requirements to demonstrate Value for Money**. Evidence is expected to be retained **and recorded in an Officer Decision**, to support such decisions where procurement exceeds £10,000.

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

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.3.1 **Selection of Suppliers**

Tenders Over ~~European Procurement Regulation~~ Statutory Thresholds

(a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current ~~European Procurement regulation~~ **Public Contract Regulations 2015 (as amended)** thresholds, such regulations will take precedence over these tender procedures.

Tenders Under ~~European Procurement Regulation~~ Statutory Thresholds

The appropriate Corporate Director/Head of Department will determine whether to use **Open Competitive Tendering** or **Selective Tendering** as set out separately below.

4.3.2 **Open Competitive Tenders**

A notice inviting tenders shall be prepared which should:-

- (i) Set out the nature and purpose of the contract and specify that expressions of interest are sought and set out details of where further information/tender documents can be obtained.
- (ii) Be advertised via the Council's electronic "portal" that is open to all potential suppliers or alternatively in at least one newspaper or journal circulating among suppliers/contractors who undertake such contracts. The notice period to be allowed for potential suppliers to request additional tender documentation should be determined by the Corporate Director/Head of Department.

Following the expiry of the notice period, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5**.

4.3.3 **Selective Tendering**

Where the Council can access a central/framework arrangement, government sponsored list or a contract negotiated by another public body as set out in **SECTION 3.2** above, more than one supplier may be eligible under such arrangements. If this is the case, tender documentation

should be sent to the relevant parties in accordance with **SECTION 4.3.5**. In all other cases the following process should be undertaken:

A public notice shall:-

1. Specify details of the goods, works or services to be tendered.
2. Specify a time limit determined by the Corporate Director/Head of Department during which time potential suppliers can request that they be considered for inclusion in the associated tender process.
3. After expiry of the period specified in the public notice, the responsible Corporate Director/Head of Department will undertake an evaluation of the suppliers. This evaluation may be subject to Tender Evaluation Panel review.
4. The responsible Corporate Director/Head of Department, and where appropriate the Tender Evaluation Panel, will in consultation with the appropriate Portfolio Holder or Chairman of the relevant Committee select those contractors suitable and capable to tender for the proposed contract.

Following the conclusion of the evaluation process, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5** below:

4.3.4 The Number of Suppliers Invited to Tender

Invitations to tender shall ensure fair competition and where possible include a mix of local and non-local suppliers and shall be sent to:-

Not less than 4 contractors, with the maximum number as determined by the relevant Corporate Director/Head of Department. (Where less than 4 suitable contractors have been identified from the selection process, then all shall be invited to tender).

4.3.5 Going out to Tender

General Rules

Tenders must:

- (i) Specify the goods, works or services to be supplied, contract value, any discounts or other deductions that may apply, the period(s) during which the contract is to be performed and any other relevant terms and conditions that the responsible Corporate Director/Head of Department considers necessary.
- (ii) In appropriate cases, provide for the retention of stated sums/percentages and the retention period to be applied.
- (iii) In appropriate cases, provided for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.

-
- (iv) In appropriate cases, and at the discretion of the responsible Corporate Director/Head of Department, make provision requiring the contractor to provide a performance bond and/or a parent company guarantee.
 - (v) Identify the basis on which the submitted tenders will be evaluated. (Where the evaluation is other than a straightforward financial evaluation based upon lowest submitted price, the proposed evaluation process must be submitted to the Tender Evaluation Panel for agreement before tenders are sought).
 - (vi) Tenders are required to be submitted on a form of tender prepared by, or agreed by, the Council which shall include a statement that the Council will not be bound to consider or accept any tender.
 - (vii) Specify the closing date and time by which tenders must be received.
 - (viii) Where the Corporate Director/Head of Department considers that the Council may benefit from the use of post tender negotiation, that officer shall ensure that such intention is included in the documentation submitted to tenderers and before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
 - (ix) Specify social value considerations as appropriate.
 - (x) Unless an exemption is obtained from ~~the Assistant Director (Finance & IT)~~ or the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought.

4.3.6 Receipt of Tenders

Unless determined otherwise by the responsible Corporate Director/Head of Department in consultation with ~~Finance, Benefits and Revenues~~ **Governance Services**, all tenders should be requested to be returned electronically by e-mail. However, whatever form of tender response is implemented, all tenders must be submitted in the same manner.

The responsible Corporate Director/Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail system must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Tender documentation sent to potential providers must state that tenders must only be sent to the specified e-mail address and that tenders e-mailed to any other Council e-mail address or after the closing date and time will be disqualified.

As soon as practical after the closing date and time, ~~tenders must be submitted to the Assistant Director (Finance & IT) or their~~ a designated **Governance Services** Officer ~~who~~ will arrange for the formal recording of the tenders **submitted**.

In exceptional circumstances where hard copy tenders are requested, then the email requirement above is replaced by the tender returns being addressed to the Head of Democratic Services & Elections or their designated Officer. Prospective tenderers must be instructed to clearly mark envelopes with the fact that it is a tender submission and that it is not to be opened until after the relevant closing date and time.

4.3.7 **Opening of Tenders**

~~The following rules apply to both electronic and hard copy submission of tenders:~~

- ~~(a) All tenders shall be opened at the same time in the presence of:-~~
 - ~~(i) The Head of Democratic Services & Elections or other officer to whom they have delegated responsibility~~
 - ~~(ii) The responsible Corporate Director/Head of Department or other officer to whom they have delegated responsibility.~~
 - ~~(iii) The Chief Financial Officer, or other officer to whom they have delegated responsibility.~~

(a)(1) Electronic Submission of Tenders

Having obtained the necessary password from IT Services, the Head of Democratic Services & Elections (or other officer to whom they have delegated the responsibility) will access the appropriate electronic tenderbox and open, in turn, the Form of Tender document from the Tenderers contained therein. That Officer will also check the “Spam” email box to ensure that no Tendered documents have been misidentified.

That Officer will check that the Tenderer’s email was received before the deadline for receipt of tenders and will record the name of the tenderer and the amount of the tender. The Officer will then forward, by email, the Tenderer’s email to the relevant Officer who is overseeing the tender process. The Officer will then repeat the process for all of the Tenderers. The Officer will then closedown the electronic tenderbox and will then email the password to the relevant Officer who is overseeing the tender process so that they can conduct their own checks et cetera.

The Officer will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will also email that document to the relevant Officer who is overseeing the tender process for their records et cetera.

(a)(2) Hard Copy Submission of Tenders

As soon as possible after the relevant closing date and time the hard copy tenders received will be opened in the presence of:-

- (i) The Head of Democratic Services & Elections or his nominated representative;
- (ii) The responsible Corporate Director/Head of Department or their nominated representative; and
- (ii) At their sole discretion as to the necessity of their attendance, the Council's Head of Internal Audit, or their nominated representative.

The Officer referred to (i) above will open the tender envelope, locate the Form of Tender, record the name of the tenderer and the amount of the tender and initial against the amount on the Form of Tender. The Officer referred to in (ii) above will also similarly append their initials. That process will then be repeated for all of the Tender Envelopes.

The Officer referred to in (i) above will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will produce two copies. One will be kept by that Officer and the second will be handed to the Officer referred to in (ii) above for their records et cetera.

- (b) The Head of Democratic Services & Elections, or other officer to whom they have delegated **that** responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars:-
 - (i) The **title and** closing date and time for receipt of tenders
 - (ii) The date upon which the tender was received (**if it was a hard copy tender**)
 - (iii) Where a tender is received after the closing time on the closing date and is considered or accepted, the reason(s) why it was considered or accepted
 - (iv) The name of the tenderer and the amount of the tender
 - (v) The date upon which the tenders received were opened
 - (vi) All officers present at the opening of **hard copy** tenders shall immediately sign against the relevant ~~particulars in the register~~ **Record of Tenders Received document** as evidence of such tenders having been opened in their presence.
 - (vii) The signature of the officer to whom the **hard copy** tenders were handed after opening.
- (c) Any tender received after the closing time and date shall, unless Procurement Procedure Rule 4.3.7 (b)(iii) applies thereto, be returned by the Head of Democratic Services & Elections, **or their delegated Officer** promptly to the tenderer. The tender may be opened to ascertain the name and **postal or email** address of the tenderer, but no details of the tender shall be disclosed **to any other party whether internal or external.**

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.

4.3.9 Tender Evaluation Consultation

The Council will undertake a Tender Evaluation Consultation of all tenders, estimated at over £50,000 (excluding VAT) being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors. The Consultation will be led by the relevant Corporate Director or their designated officer and will include officers determined by them along with a senior officer from the department letting the contract.

The Tender Evaluation Consultation shall also have the right to include technical assistance/expertise from other departments as considered necessary.

Officer decisions recording the award of contract should include reference to the views/comments identified by the consultees.

An external representation can be accepted into any Tender Evaluation Consultation. In all cases where an external representative is included, they must be asked to declare any potential interests.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 **Contract Clauses**

Unless an exemption is obtained from ~~the Assistant Director (Finance & IT) or~~ the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft Contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. In all cases, contracts must follow any guidance issued by the ~~Section 151 Officer and~~ Monitoring Officers in this regard.

5.2 **Authorised Officers**

-
- (a) Each Corporate Director/Head of Department is responsible for advising the Chief Financial Officer, in writing, of those officers who are empowered to enter into contracts, or procurement, on behalf of the Council, and any maximum limits on the values concerned.
 - (b) Each Corporate Director/Head of Department shall advise the Chief Financial Officer in writing, immediately of any changes to those officers so empowered, or their limits.
 - (c) Only officers so empowered will be provided with a level of access to any computerised procurement system operated by, or on behalf of, the Council, that enables them to authorise official orders within the limits set.

5.3 Nominated Sub-Contractors and Suppliers

- (a) Competitive quotations/tenders shall be sought for the execution of works or for the supply of goods or materials by a nominated subcontractor in accordance with these Procurement Procedure Rules, unless it is considered impractical to do so.
- (b) Where the estimated value of the subcontract does not exceed £50,000 the responsible Corporate Director/Head of Department shall determine whether it is practical to obtain quotations.
- (c) Where the estimated value of the subcontract exceeds £50,000 and the responsible Corporate Director/Head of Department considers the obtaining of tenders to be impractical the approval of the Leader of the Council, relevant Portfolio Holder or Committee Chairman for the proposed course of action shall be sought.
- (d) The invitation to a subcontractor to quote/tender shall include an undertaking that, if selected, the subcontractor will enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in respect of goods, works or services included in their subcontract.

SECTION 6 – OFFICIAL ORDER RULES

6.1 General Requirements

ALL goods, works or services must be subject to an official order unless an exemption is provided in Section 6.2 below.

- (a) All orders shall be placed using the Council's approved ordering system, unless exempted elsewhere in these Procurement Procedure Rules.
- (b) The format of the Council's approved standard official purchase orders (either hard copy or electronic) and any standard terms and conditions to be applied to each order shall be determined by the Assistant Director (Finance & IT) **and the Assistant Director (Governance)**.
- (c) In the event of the need to issue a variation to an order, this will be by issue of a further order and must clearly identify the order number of the order to be varied.
- (d) All orders must:-

(i)	Bear the name and logo of Tendring District Council
(ii)	Clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system.
(iii)	Contain any other detail, terms and conditions that are applicable to that order. For the engagement of consultancy services or specialist professional advice this must include a condition relating to professional indemnity insurance.
(iv)	Have a value or an accurate estimate of the value of the goods, works, or services entered into on the Council's electronic ordering system.
(v)	Must be authorised by an officer duly authorised by the responsible Corporate Director/Head of Department.

6.2 Exemptions from Official Order Rules

Verbal orders, orders that are not accompanied by an official order or not exempt as set out below should only be made in special/exceptional circumstances and only after consultation with the Assistant Director (Finance & IT) or their designated officer. In the case of emergencies where an officer needs to take appropriate action to protect the Council's position or its assets then a verbal order can be made but the Assistant Director (Finance & IT) must be informed as soon as practical thereafter.

Where verbal orders are made they should be followed up by entering the necessary details on the Council's ordering system in accordance with 6.1 above as soon as possible.

A Corporate Director/Head of Department shall be exempt from the need to raise an official order in the following circumstances:-

(a)	For cash purchases using the Council's Petty Cash system, where ordering using the approved computer system is considered not to be practical. A maximum limit of £50 (excluding VAT) is applicable to each procurement made using the Council's Petty Cash system.
(b)	For the periodic payment of rent and National Non Domestic Rates.
(c)	For the periodic payment of former public utility supplies.
(d)	Where the nature of the goods, works or service requires an appropriate standard form of written contract.
(e)	For contract variations where a written contract requires a form of written contract variation, that is not in the format of the Council's standard official order.
(f)	For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system.
(g)	For the engagement of Counsel by the Assistant Director (Governance).
(h)	Where the Chief Financial Officer has agreed the use of purchase cards or where one of the Council's credit cards is used. However, whenever possible, an Official Order should be raised as soon as possible for audit and recording purposes after the transaction has been made using a corporate credit card.
(i)	Any other circumstances as agreed, in advance of the procurement, by the Assistant Director (Finance & IT).
(j)	Where goods or services are procured in-house.

A.4 APPENDIX L

SCHEME FOR DEALING WITH PETITIONS

Tendring District Council recognises the importance of petitions as a means of engaging with local communities, enabling the public to air concerns, and as a mechanism for generating service improvements. These pages set out what a petition is, how the public can submit a petition, how it will be dealt with and what the Council can do to respond to the issues raised.

What Constitutes a Petition

Any communication which is signed by, or sent to the Council by **30 or more** ~~than 30~~ people who live, work or study within Tendring shall be treated as a petition provided that such communication has a clear message or instruction upon which it would wish the Council to act.

Any communication which is signed by, or sent to the Council by **less** than 30 of the people who live, work or study within Tendring shall not be treated as a petition but, where it relates to a matter for which the Council has responsibility for, it shall be forwarded to the appropriate officer of the Council to acknowledge and advise what action, if any, will be taken.

Signatory Eligibility

The Council is keen to receive feedback from all residents, visitors and from people working or studying in the Tendring area, through various communication channels. However, only those people who are either (a) permanent residents of Tendring or (b) non-residents who can be clearly identified as either working or studying in Tendring can trigger a formal petition response.

There is no legislation supporting the minimum age requirement for a person to initiate or support a petition. Accordingly, children and young people have the ability to submit a petition as it is deemed they have the same rights and opportunity for their voices to be heard as well as adults. However, it is recognised that in practice, a teacher or parent would oversee the submission of a petition from school children where such children are under 16 years of age.

Whilst the Council welcomes petitions as a means of highlighting concerns within a local area, the lead petitioner has a responsibility to ensure that any petition submitted is done so under the principle of good faith and be decent, honest and respectful.

Information to be included

Any petition submitted must contain the following:

- A clear and concise statement covering the subject of the petition, the area to which the petition relates and what action the petitioners want the Council to take;

- The contact details for the petition organiser (lead petitioner) so the Council knows who to contact (where the lead petitioner is not identified, the Council shall correspond with the person named first on the petition);
- The name, full address, postcode and signature of any person supporting a traditional paper petition (address details will be checked). Such a petition must be accompanied by a dated covering letter that identifies the key information outlined in this procedure about the purpose of the petition, what action is called for and contact details for the lead petitioner;
- The name, postcode and email address for those persons who sign up to an electronic petition or e-petition; and
- The date the petition was submitted.

Any petition that does not comply with the above requirements will be deemed invalid.

1. How to Submit a Petition to the Council

Petitions can be submitted to the Council in the following ways:

- E-petition – The petition must be ~~emailed to democraticservices@tendringdc.gov.uk~~ **submitted via the Petitions function on the Council's website (www.tendringdc.gov.uk)**. Where no end date to an e-petition is specified, the Council shall set this at ~~three months~~ **93 days** from the date of receipt of the petition.
- Paper petitions must be sent to The Committee Services Manager, Tendring District Council, Democratic Services & Elections, Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE.

2. What happens when a Petition is submitted?

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt. **In relation to an E-petition the lead petitioner will be informed that the Council will deem the petition to be held 'in abeyance' until such time as the end date has passed. At which time the Council will count up and, if felt necessary, verify the signatures etc. The Council will then action the petition in accordance with the provisions of this Scheme.**
- The Council will accept any petition on face value but reserves the right to verify the signatures or investigate further, if deemed necessary. The petition must not be vexatious or frivolous or defamatory or offensive. It must not be substantially the same as a Petition previously received and dealt with by the Council within the past 12 months.

- It must also relate to a matter for which the Council has responsibility for, subject to the exceptions detailed below:

Petitions Received in respect of Planning Applications, the Local Plan making process and other Regulatory Matters (such as licensing applications submitted under the Licensing Act 2003 and the Gambling Act 2005)

Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the appropriate department and will be considered as representations received in relation to that particular application or planning matter.

Petitions received in respect of the Local Plan making process will be referred to the Planning Policy & Local Plan Committee.

Community Governance Petitions

Community Governance petitions will be considered initially against the relevant provisions of the Local Government and Public Involvement in Health Act 2007. Those petitions that do not meet the criteria under that Act to trigger a Community Governance Review will then be considered against the criteria contained within this Scheme.

Petitions for a Referendum for an Elected Mayor and Cabinet or a Committee System of Local Government

Petitions for a referendum for an Elected Mayor and Cabinet or a return to a Committee System of Local Government will be considered initially against the relevant provisions of the Local Government Act 2000 and related legislation such as the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2011 (as amended). Those petitions that do not meet the criteria under that Act and supporting legislation to trigger a Referendum will then be considered against the criteria contained within this Scheme.

The Head of Democratic Services & Elections (or, in their absence or other unavailability, the Committee Services Manager) will decide whether a petition is valid and/or acceptable. In making their decision those Officers will consult, if necessary, the Monitoring Officer. If the decision made is to reject the petition as being invalid and/or unacceptable the Head of Democratic Services and Elections (or Committee Services Manager) will inform the Lead Petitioner accordingly, explaining the reasons why the petition cannot be accepted under this scheme and, if appropriate, informing the petitioner that the petition will be forwarded to the relevant department together with a request that they respond directly to the petitioner on the matters raised.

- If the issue contained within the petition is not something which the Council would ordinarily consider in public as it would require the disclosure of confidential or exempt information (as defined in local government law), the lead petitioner will be informed accordingly, explaining the reasons why the petition cannot be accepted under this scheme and where appropriate, referring the petitioner to the relevant department and advising them as to how their views can be expressed via alternative means.
- If the issue contained within the petition does not relate to any functions or responsibilities of the District Council, but does relate to a matter for which Essex County Council or other body or partner is responsible, the petition will be forwarded to that organisation and the lead petitioner advised accordingly.
- Each petition received shall be based on a tiered system whereby:
 - (a) A valid petition containing 30 to 500 signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council for information. It will **also then** be presented to the first practicable meeting of the Cabinet **(if it relates to a matter that is an Executive function under the law) or the appropriate committee** and then, if **so** requested, **the matter will be investigated and** a report will be brought back to **the Cabinet/Committee** for consideration;
 - (b) A valid petition containing 501, or more signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council to advise that the petition has been received. Once it has been investigated, a report will be prepared and presented with the petition at the next meeting of the Council for consideration. If it relates to a matter that is an Executive function under the law the petition will also be presented to the first practicable meeting of the Cabinet and any views, comments or recommendations made by Cabinet will be incorporated into the aforementioned report to Council.
 - (c) The appropriate Ward Member(s) will be informed of receipt of a petition and any action to be taken.

*Note: Where the subject of a petition requires urgent action (i.e. it cannot wait until the following meeting of the Council) it is proposed that the petition be investigated and a report be presented to the first available meeting of the ~~Council~~ **appropriate committee** or Cabinet **(if it relates to a matter that is an Executive function under the law)**.*

In the period immediately before an election or referendum the Council may need to deal with petitions differently. If this is the case, the Head of Democratic Services & Elections,

having consulted the Monitoring Officer, will explain, in writing, the reasons to the Lead Petitioner and inform them of the revised timescale that will apply.

- When a petition is being **initially** considered by **a committee or the** Cabinet (or Council, following investigation and a report being brought back), the lead petitioner will be invited to address the **committee**, Cabinet or Council **as the case maybe**, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to **the committee**, Cabinet or Council, **as the case maybe**, on **their** behalf ~~of the relevant petitioners.~~ **and will have a time limit of three minutes for their speech.**
- **Where the lead petitioner requests a representative or a Ward Councillor to speak on their behalf, the lead petitioner must inform the Head of Democratic Services & Elections (or Committee Services Manager) in writing or by email in advance of the relevant meeting of the name of that representative / Ward Councillor.**
- Should two petitions be received on the same issue (including if one is in support and one opposing a course of action) then both lead petitioners will be invited to address Cabinet or Council at the same time.
- The relevant Ward Member(s), Cabinet Member(s) and officers will be informed when a valid petition covering their Wards and/or areas of responsibility is received and when and how the petition will be considered.
- The lead petitioner will be informed, in writing, of the **committee's**, Cabinet's or Council's decision **as the case maybe** and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and, **if so requested by the chairman**, address that meeting and ~~/or if appropriate~~, answer any questions posed at the meeting.
- Relevant Officers will be required to attend any meeting to assist in the scrutiny and investigation of issues raised in the petition. As a general principle, the relevant Officers should be at a Head of Service level or above.
- Where possible, the consideration of a petition will be held in public but, in exceptional circumstances, it may be necessary for an issue to be considered as a "exempt" item under the Local Government Act 1972, the Access to Information Act 1985 and other relevant legislation. In such circumstances, the lead petitioner, public and press will be excluded from the meeting (or part of it) but the reasons for their exclusion will be clearly communicated to them and will also be included in the Minutes of that meeting.

3. What happens after a Petition has been considered?

There are several courses of action available to the **committee**, Cabinet or the Council (as appropriate) once a petition has been considered, including:

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- **Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)**
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.
- Referring the petition to a Committee or Cabinet **or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)**
- Holding a public meeting
- Holding an inquiry
- Providing a written response to the lead petitioner setting out the Council's views on the request in the petition
- ~~Considering the petition at~~ **Deferring consideration of the petition to** a future **committee**, Cabinet or Council meeting
- Calling for a referendum (**if permitted under legislation and** subject to costs)

A.4 APPENDIX M

Members' Referral Scheme for Planning Applications - Guidance Note January 2019~~22~~

The Terms of Reference of the Planning Committee as set out in the Constitution (~~Green Part 3.14~~) delegates all planning and conservation matters to ~~the Assistant Director (Planning) Officers~~ except in relation to certain planning applications, which are for determination by the Committee. One of the exceptions listed is where **Members** request that an application should be referred to the Planning Committee. The wording (~~Part 3.15~~) is as follows:

- (vi) *Within ~~28~~ **35** days of the commencement of formal consultation, a written request is received from a Tending District Councillor in accordance with the Member Referral Scheme requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.*

The MEMBER REFERRAL SCHEME is based on the following principles:

- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);
- Planning Committee Members are involved in decision-making for the people of the district as a whole (in accordance with Article 2 of the Constitution – 2.03 (a) (v));
-
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;
- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members' Referral Scheme does not apply to a householder application, which is defined as follows:

“A ‘householder’ application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house”.

- Members are requested to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference;

Date: **24th** January 2019 **22** - Chairman of the Planning Committee

LETTER TO THE ASSISTANT DIRECTOR (PLANNING)

Date:

Dear Assistant Director (Planning),

MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF:

(*) I am the Ward Councillor for [insert the Ward] and in representing the community*/the interests of the ward* or of individual residents* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

- (a) the Ward to which I am elected to(*); or
- (b) is adjacent to the Ward to which I am elected to(*); or
- (c) directly impacts the Ward to which I am elected to because (*)

.....

in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

(*) I am a current serving member of the Planning Committee and the proposed development could be considered of significant importance to the wider district or policy because The Planning Committee Chairman has been consulted and approves this matter being determined by the Planning Committee. By making this request I confirm that I am not predetermined and will approach the decision making with an open mind and therefore have not highlighted any relevant material considerations below.

The referral is because of the following material planning considerations **(and for the reasons set out hereunder):-**

- In line with/potentially contrary to* the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)**
- Negative/Positive* impact on urban design/street scene**
- Highways impact and/or other traffic issues**
- Good/Poor* layout and/or density issues**
- Flood Risk**

Positive/Negative* Impact on neighbours



Other material considerations as follows.....

.....
.....
.....

My reasons for the referral are as follows:-

If officers are minded to approve/refuse* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

Councillor

* Delete as appropriate.

A.4 APPENDIX N

Article 7 (The Executive/Cabinet)

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.

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.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

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.
- (v) Where a Member has submitted a Motion to Council under Council Procedure Rule 12.2 and that motion has been referred to Cabinet under Council Procedure Rule 12.6 or Council Procedure Rule 12.7, that Member will have the right to attend the relevant meeting of Cabinet and present their Motion/answer Cabinet's questions, as appropriately permitted under Council Procedure Rule 12.10.**
- (vi)** The Constitution includes no provision for substitute members at meetings of the Executive.