

# **Part 4**

## **Rules of Procedure**

# COUNCIL PROCEDURE RULES

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## **1. BUSINESS**

### **1.1 Order of Business**

The order of business at every meeting of the Council, except as otherwise provided by paragraph 1.2 of this Rule shall be:-

- 1.1.1 to choose a person to preside if the Mayor and Deputy Mayor be absent;
- 1.1.2 to deal with any business required by statute to be done before any other business;
- 1.1.3 to approve as a correct record and sign the minutes of the last meeting of the Council;
- 1.1.4 to receive apologies for non-attendance;
- 1.1.5 Mayor's announcements;
- 1.1.6 to give directions relating to requests from the public to ask questions of or to address the Council in accordance with the Guidelines for Open Government;
- 1.1.7 to dispose of business (if any) remaining from the last meeting;
- 1.1.8 to hear any Cabinet Member Presentations under Rule 5;
- 1.1.9 other business, if any, specified in the summons; and
- 1.1.10 to deal with any matter requiring urgent attention which the Mayor with leave of the Council specifically wishes to bring to the attention of the Council.

### **1.2 Variation of Order of Business**

Business falling within Rules 1.1.1, 1.1.2 or 1.1.3 shall not be displaced, but, subject thereto, the foregoing order of business may be varied:-

- 1.2.1 at the Mayor's discretion; and
- 1.2.2 by a resolution passed on a motion (which need not be in writing) duly moved and seconded which shall be moved and put without discussion

### **1.3 Mayor's Announcements**

Business falling under Rule 1.1.6 shall not, except with the consent of the Mayor, be the subject of comment debate or question.

### **1.4 Guillotine**

#### **1.4.1 Interruption of the meeting**

If the business of a council meeting has not been concluded by 10.30 pm, the Mayor will draw the attention of the meeting to the time and to this rule.

#### **1.4.2 Motions and recommendations not dealt with**

In the case of any motions or recommendations on the agenda that have not been dealt with by 10.30pm

- 1) The Chair shall put to the vote without further debate any motion or amendment currently under discussion; and
- 2) Any items remaining to be considered will be put to the meeting without further discussion and a vote taken on whether the item should be accepted; rejected; referred; deferred or withdrawn.

## **2. MINUTES**

- 2.1** The Mayor shall put the question that the minutes of the previous meeting of the Council be approved as a correct record. No discussion shall take place upon the minutes except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of the Mayor shall sign the minutes.
- 2.2** Council minutes which would otherwise require to be signed at an Extraordinary meeting may be signed at the next ordinary meeting.

## **3. MOTIONS**

### **3.1 Notices of Motion**

Notice of every motion (other than a motion which under Rule 3.6 may be moved without notice) shall be given in writing, signed by the member or members of the Council giving the notice, and delivered, faxed or e-mailed not later than 5pm twelve calendar days before the meeting to the office of the Chief Executive. Notices of motion shall be available for inspection at the Chief Executive's Department.

### **3.2 Motions to be set out in Summons**

There shall be set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the member giving such notice intimated in writing, when giving it, that they propose to move it at some later meeting, or has since withdrawn it in writing.

### **3.3 Motion Not Moved**

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

### **3.4 Amendments to Motions**

Amendments to motions will need to be circulated at least thirty minutes before the meeting by the proposer of the amendment. The Mayor will have the discretion to disallow an amendment not complying with this rule.

### **3.5 Scope of Motions**

- 3.5.1 Every motion shall be relevant to some matter in relation to which the Council has powers or duties.
- 3.5.2 The Monitoring Officer will have the power to disallow a motion if it does not comply with the law or is not within the powers of full Council to consider.

### **3.6 Motions and Amendments which may be moved without notice**

The following motions and amendments may be moved without notice:-

- 3.6.1 appointment of a Chair of the meeting at which the motion is made;
- 3.6.2 motions relating to the accuracy of the minutes;
- 3.6.3 that an item of business specified in the summons have precedence;
- 3.6.4 reference or reference back to the Cabinet or to a committee;
- 3.6.5 appointment of a committee or member thereof occasioned by an item mentioned in the summons to the meeting;
- 3.6.6 adoption of minutes and recommendations of the Cabinet, committees and sub-committees and any consequent resolutions;
- 3.6.7 that leave be given to withdraw a motion;
- 3.6.8 amendments to motions;
- 3.6.9 that the question be now put;
- 3.6.10 that the Council do now adjourn;
- 3.6.11 suspending Council Procedure Rules where permissible under Rule 22;
- 3.6.12 motions under Section 100A of the Local Government Act 1972 to exclude the public;
- 3.6.13 that a member named under Rule 8 be not further heard;
- 3.6.14 giving consent of the Council where the consent of the Council is required by these Council Procedure Rules; and
- 3.6.15 excepting any item or minute under Rule 6.13 from formal agreement.

## **4. MEMBER AND PUBLIC QUESTION TIME**

### **4.1 Restriction on question time**

Member and Public question time shall not be taken at the annual Council meeting nor to Council meetings called to deal with specific items of business (including the meeting where the Council tax is set).

### **4.2 Scope of Questions**

The Solicitor to the Council may in consultation with the Chief Executive and Group Leaders reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the borough;
- is defamatory, frivolous or offensive;

- is repetitious;
- is substantially the same as a question which has been put at a meeting of the council in the past six months;
- requires the disclosure of confidential or exempt information;
- concerns a planning or licensing application;
- raises a grievance for which there are other established processes for resolution; or,
- relates to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the adjudication panel, in so far as those comments relate to the behavior or conduct of an individual member or members.
- Does not relate to the work of the person to whom the question is addressed

### **4.3 Form and Eligibility to ask Questions**

- 4.3.1 A member may ask questions on any matter in relation to which the council have powers.
- 4.3.2 A resident or business ratepayer of the borough may ask a maximum of two written questions at each meeting (limited to 50 words) on any matter in relation to which the council have powers.
- 4.3.3 Each question from the public must provide the name and address of the questioner and name the executive member/committee chair to whom the question should be put.

### **4.4 Deadlines**

- 4.4.1 An application for a question to be considered shall be submitted in writing and delivered, faxed or e-mailed to Meeting Services no later than five clear working days before the council meeting
- 4.4.2 The date and time of receipt of such requests will be recorded in a book kept for that purpose and a copy of the question will immediately be sent to the Mayor and the member to whom it is to be put. Rejected questions will include reasons for rejection.

### **4.5 Length of public question time**

The time during which public questions shall be taken shall not exceed thirty minutes. It shall not be in order to move for an extension of this time limit. When the time limit has expired, any remaining written replies shall be taken as read.

## **4.6 Asking the question at the meeting**

- 4.6.1 Copies of all the questions to be dealt with at the meeting, together with written answers, shall be circulated (in a suitable format) at the meeting and copies shall be available for members of the public and the press.
- 4.6.2 The Mayor will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor 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.

## **4.7 Supplemental question**

A questioner who has put a question in person may at the discretion of the Mayor also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in rule 4.2 above.

## **4.8 Form of Answer**

An answer may take the form of:

- a direct oral answer; or
- where the desired information is contained in a publication of the Council a reference to that publication; or
- a written answer circulated; or
- the Leader, Portfolio Holder or appropriate Chair may decline to respond to a public or member question.

## **4.9 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

## **4.10 Reference of question to the executive or a committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

#### **4.11 Order of Questions answered**

- 4.11.1 questions shall be dealt with in the order in which they are received, subject to 4.2 above;
- 4.11.2 questions from Councillors will be considered first, in the order they are received and questions from members of the public will be considered next in the order they are received;
- 4.11.3 the Mayor will have the discretion to allow questions from members of the public to be considered first and will have the discretion to rearrange the order of presentation of questions to ensure that there is a proper balance between member and public questions.

#### **4.12 Question Time Guillotine**

- (1) The question time guillotine shall take effect thirty minutes after the commencement of the question time.
- (2) Once the question time guillotine is reached, the mayor will announce that fact to the meeting upon which the member speaking must immediately sit down, or in the case of a member of the public speaking, the person will immediately cease speaking.
- (3) Any outstanding questions will be responded to in writing and sent to the questioner within seven working days of the Council meeting.

#### **5. Cabinet Member Presentations**

- 5.1 A period of up to half an hour will be allowed at Council meetings during which members of the Cabinet will be able to put forward presentations relating to their respective portfolios and upon which Councillors will be able to ask them questions.
- 5.2 Such presentations may be presented either in writing or verbally or a combination of the two but in any event the verbal presentation should not exceed three minutes in duration. If a written presentation is made it should be circulated to all Councillors before the start of the meeting, and it should be kept concise.
- 5.3 Upon completion of the presentation members may ask questions relating to it. Subject to Rule 5.4 below there is no limit on the number of questions members may ask and there is no requirement for prior notice for questions.
- 5.4 In order to keep to the half hour limit and/or maintain fairness between members the Mayor may limit the number of questions (or further questions) to be asked, either in total or by any one member, or to any one Cabinet Member.
- 5.5 This Rule 5 shall not apply to the Annual Council meeting, nor to Council meetings called to deal with special items of business (including the meeting when the Council Tax is set).



## **6. RULES OF DEBATE**

### **6.1 Motions and Amendments**

A motion or amendment shall not be discussed unless it has been proposed and seconded, and (unless notice has already been given in accordance with Rule 3) it shall, if required by the Mayor, be put in writing and handed to the Mayor before it is further discussed or put to the Meeting.

### **6.2 Secunder's Speech**

A Councillor when seconding a motion or amendment may, if they then declare an intention to do so, reserve their speech until a later period of the debate provided that such reservation shall not be necessary in connection with the formal adoption of a minute or a recommendation of the Cabinet or a committee.

### **6.3 Only one Councillor to Stand at a Time**

A Councillor when speaking shall stand and address the Mayor. If two or more Councillors rise, the Mayor shall call on one to speak; the other or others shall then sit. While a member is speaking the other members shall remain seated, unless rising to a point of order or in personal explanation.

### **6.4 Content and Length of Speeches**

A Councillor shall direct their speech to the question under discussion or to a personal explanation or to a point of order. No moving or seconding speech shall exceed ten minutes and no other speech shall exceed five minutes, except by the consent of the Council.

### **6.5 When a Councillor May Speak Again**

A Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-

- 6.5.1 to speak once on an amendment moved by another Councillor;
- 6.5.2 if the motion has been amended since they last spoke, to move or speak on a further amendment;
- 6.5.3 if their first speech was on an amendment moved by another Councillor, to speak on the main issue, whether or not the amendment on which they spoke previously was carried;
- 6.5.4 in exercise of a right of reply given by Rules 6.9 or 6.11;
- 6.5.5 on a point of order; and
- 6.5.6 by way of a personal explanation.

## **6.6 Amendments to Motions**

An amendment shall be relevant to the motion and shall be either:-

- 6.6.1 to refer a subject of debate to the Cabinet or a committee for further consideration or re-consideration;
- 6.6.2 to leave out words;
- 6.6.3 to leave out words and insert or add others;
- 6.6.4 to insert or add words.

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.

Only one amendment may be moved and discussed at a time and no further amendment shall be moved unless the amendment under discussion has been disposed of.

Provided that the Mayor may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

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

## **6.7 Alteration to Motion**

A member may with the consent of the Council, which consent, if given, shall be signified without discussion:-

- 6.7.1 alter a motion of which they have given notice; or
- 6.7.2 with the consent of the seconder also alter a motion which they have moved if (in either case) the alteration is one which could be made as an amendment thereto.

## **6.8 Withdrawal of Motion**

A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council, which consent, if given, shall be signified without discussion, and no other Councillor may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

## **6.9 Right of Reply**

The mover of a motion has a right to reply at the close of the debate on the motion immediately before it is put to the vote except where a motion is moved under Rule 6.11 hereof. If an amendment is moved, or the original motion is under Rule 4.4 (which shall be treated as if it were an amendment) the mover of the original motion shall (so long as it

is unamended) separately on each amendment proposed have a right of reply at the close of the debate on the amendment and shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on the amendment but if the amendment is carried, shall have the right of reply to any further debate on the original motion as amended in place of the mover of the original motion.

## **6.10 Motions which may be Moved during Debate**

When a motion is under debate no other motion shall be moved except the following:

- 6.10.1 to amend the motion;
- 6.10.2 to adjourn the meeting;
- 6.10.2 that the question be now put;
- 6.10.4 that the member be not further heard;
- 6.10.5 by the Mayor under Rule 8.2 that the member do leave the meeting;
- 6.10.6 a motion under Section 100A of the Local Government Act 1972 to exclude the public; and
- 6.10.7 to suspend these Rules where permissible under Rule 22.

## **6.11 Closure Motions**

A Councillor who has not spoken on a motion then under discussion may move without comment at the conclusion of a speech of another member, "That the question be now put", or "That the Council do now adjourn", on the seconding of which the Mayor shall proceed as follows:-

- 6.11.1 on a motion that the question be now put: the Mayor shall first put to the vote the motion that the question be now put and if it is passed, then put to the vote the motion.
- 6.11.2 on a motion to adjourn the meeting: the Mayor shall put the adjournment motion to the vote after giving the mover of the original motion the right to speak for not more than five minutes on the adjournment.

## **6.12 Procedural Points**

A member may rise on a procedural point or in personal explanation and shall be entitled to be heard forthwith. A procedural point shall relate only to an alleged breach of one of these Rules or a statutory provision, and the member shall specify the Rule or statutory provision and the way in which the member considers it has been broken. A personal explanation shall be confined to some material part of a former speech by the member in the present debate which may appear to have been misunderstood.

The ruling of the Mayor on a procedural point or the admissibility of a personal explanation shall not be open to discussion.

### **6.13 Respect for the Mayor**

Whenever the Mayor rises during a debate a member then standing shall be seated and the Council shall be silent.

## **7. MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, pension 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 has decided whether or not the power of exclusion of the public under Section 100(A) of the Local Government Act 1972 shall be exercised.

## **8. BEHAVIOUR**

### **8.1 Disorderly Conduct**

If at a meeting any member of the Council, in the opinion of the Mayor notified to the Council, commits misconduct by persistently disregarding the ruling of the Mayor or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, the Mayor or any other member may move "That the member named be required to cease the misconduct immediately", and the motion, if seconded, shall be put and determined without discussion.

### **8.2 Continuing Misconduct by a Named Councillor**

If the Councillor named continues the misconduct after a motion under the foregoing paragraph has been carried the Mayor shall either:-

- move, "That the Councillor named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion);
- or adjourn the meeting of the Council for such period as the Mayor shall consider expedient.

### **8.3 General Disturbance**

In the event of general disturbance which in the opinion of the Mayor renders the due and orderly despatch of business impossible, the Mayor (in addition to any other power vested in the position) may, without the question being put, adjourn the meeting of the Council for such period as the Mayor may consider expedient.

### **8.4 Disturbance by Member of the Public**

If a member of the public interrupts the proceedings at any meeting the Mayor shall warn the person. If they continue the interruption the Mayor shall order their removal from the Council Chamber. In case of general disturbance in any part of the Chamber open to the public the Mayor shall order that part to be cleared.

## **8.5 Recording of Council Proceedings**

8.5.1 The taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place, is prohibited without the express consent of the Council having first been obtained.

8.5.2 Any person acting in contravention of this Rule may be required to leave the proceedings immediately by the person presiding thereat.

## **9. RESCISSION OF PRECEDING RESOLUTION**

No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed unless the notice thereof given in pursuance of Rule 3 bears the names of at least twelve Councillors of the Council. When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months. Provided that this Rule shall not apply to motions moved in pursuance of a recommendation of the Cabinet or a committee.

## **10. VOTING**

10.1 The mode of voting at meetings of the Council shall be by show of hands: provided that on the requisition of any member of the Council (made before the vote is taken and supported by four other Councillors who signify their support by rising in their places) the voting on any question shall be by roll-call and shall be recorded so as to show how each Councillor present and voting gave their vote.

The name of any Councillor present and not voting shall also be recorded.

10.2 Where any Councillor so requires immediately after a vote is taken at a meeting of the Council, the minutes shall record whether that Councillor voted for or against the motion or abstained.

## **11. VOTING ON APPOINTMENTS**

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

## **12. CERTAIN MATTERS TO BE CONFIDENTIAL**

All reports and documents relating to Exempt or Confidential information shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

## **13. SEALING OF DOCUMENTS**

### **13.1** The resolution of

- the Council;
- the Cabinet; or
- a committee

authorising either expressly or by implication the acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any tax, rate or contract, or the doing of any other thing, shall be sufficient authority for sealing any document necessary to give effect to the resolution.

**13.2** The seal of the Council shall be attested by the Chief Executive or by the Solicitor to the Council (or other Solicitor of at least team leader level who is so authorised by either the Chief Executive or by the Solicitor to the Council) and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be initialled by the person who has attested the seal.

## **14. INSPECTION OF DOCUMENTS**

**14.1** A Councillor may for the purposes of their duty as such but not otherwise inspect any document relating to the Cabinet or any committee of the Council and if copies are available shall on request be supplied for the like purposes with the copies of such a document.

Provided that a Councillor shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which they are professionally interested or in which they have directly or indirectly any pecuniary interest within the meaning of Sections 94 to 98 of the Local Government Act 1972 or Section 74 of the Transport Act 1985 and that this Rule shall not preclude the Chief Executive or the Solicitor to the Council from declining to allow inspection of any document which is or in the event of legal proceedings will be protected by a privilege arising from the relationship of solicitor and client.

**14.2** Subject as otherwise contained in the Constitution all reports or minutes of the Cabinet or Council committees shall be open for inspection by any Councillor.

## **15. INSPECTION OF LANDS, PREMISES ETC.**

A Councillor shall not issue any order respecting any works which are being carried out by or on behalf of the Council, or claim by virtue of their membership of the Council - unless specifically authorised to do so by the Council or a committee - any right to inspect or to enter upon any lands or premises which the Council occupies or has the power or duty to inspect or enter.

## **16. COMMITTEES AND SUB-COMMITTEES**

Subject to the overriding provisions of the Local Government Act 2000 and any regulations made thereunder the Council may at any time disband a committee alter the membership of a committee including the appointment of Chair or Deputy-Chair, appoint such additional standing or special committees for such purposes as comply with the said Act and as may appear appropriate and allocate and/or delegate to such additional committees such powers and duties as may be necessary or desirable notwithstanding any derogation from the powers and duties of any of the foregoing committees.

## **17. SUBSTITUTE MEMBERS (OVERVIEW & SCRUTINY)**

**17.1** Except where the Council determines otherwise, any Overview & Scrutiny Committee member may nominate another Councillor in accordance with Rule 17.2 hereof to attend one or more meetings in his place as a substitute with power to vote.

**17.2** The person nominated shall not be a member of the Cabinet nor already be a member of the Overview & Scrutiny Committee, and shall be a member of the same political group as the member whose place he takes. The person nominated shall not be entitled to assume any special position or status with respect to that Committee which the nominating member may possess.

**17.3** A nomination under Rule 17.2 shall be delivered, faxed or e-mailed to the Democratic Services Manager, signed by the nominating member, before 12 noon on the day of the meeting(s) or period of time for which the nomination is to have effect.

**17.4** A nomination shall apply for the whole of the meeting or for such period of time specified in the notice.

## **18. POWERS OF CABINET AND COMMITTEES**

Subject to the overriding statutory requirements of the Local Government Act 2000 and all regulations made thereunder there shall be delegated to the Cabinet, the respective committees, and officers of the Council the functions of the Council specified in the Scheme of Delegations to the Cabinet and committees and otherwise provided by this Constitution subject to the matters and restrictions set out therein.

## **19. MEETINGS OF CABINET AND COMMITTEES**

- 19.1** The Cabinet and each committee shall meet at such times and on such dates as may be prescribed on behalf of the Council.
- 19.2** The Leader of the Council may call a special meeting of the Cabinet at any time.
- 19.3** The Chair of a committee may call a special meeting of the committee at any time. A special meeting shall also be called on the requisition of at least a quarter of the total number of members of the relevant committee or sub-committees delivered in writing to the Chief Executive but in no case shall less than three members requisition a special meeting. The summons to the special meeting shall set out the business to be considered thereat.
- 19.4** The Chair shall have the power to cancel any meeting if the Chair is of the opinion there is insufficient business to justify it being held.
- 19.5** The quorum of each committee shall be not less than one quarter of the Council members of such committee.
- 19.6** At every meeting the Chair, if present, shall preside. In the absence of the Chair the Deputy-Chair, if present, shall preside but otherwise the members shall choose someone of their number to preside, or in the event of it not being possible to reach agreement, a member chosen by lot shall preside.
- 19.7** All questions shall be determined by a majority of votes of the members present. The votes shall be taken by a show of hands. Where any member so requires immediately after a vote is taken at any meeting, the minutes shall record whether that Member voted for or against the motion or abstained.

## **20. ATTENDANCE AT THE CABINET OR COMMITTEE OF OTHER MEMBERS OF THE COUNCIL**

- 20.1** A member of the Council who has moved a motion which has been referred to the Cabinet or any committee shall have notice of the meeting of the committee at which it is proposed to consider the motion. The member shall have the right to attend the meeting and if so shall have an opportunity of explaining the motion.
- 20.2** A member of the Council may attend as an observer, without a right to speak or to vote, a meeting of the Cabinet or any Committee of which they are not a member except when a matter in respect of which they would be required to declare a personal and prejudicial interest is to be discussed.
- 20.3** Members of the Council who have instigated a call-in to the Overview and Scrutiny Committee may, for the avoidance of doubt, attend and speak to any such item, and shall not be constrained by the rights as to public participation contained in the Guidelines for Open Government annexed to the Access to Information Rules contained herein, which right shall nevertheless be subject to the normal rules as to the conduct and procedure at meetings herein contained.



## **21. RULES APPLICABLE TO MEETINGS OF THE CABINET AND COMMITTEES**

The Rules numbered 2,7,8,11,12, 22, 23 and 24 respectively shall with any necessary modifications apply to Cabinet and committee meetings.

## **22. SUSPENSION OF RULES**

**22.1** Subject to paragraph 22.2 of this Rule, any of these Rules (other than Rules 2.2, 10.2, 11.2-11.4 inclusive and 19.6 and the Employment Procedure Rules hereinafter contained which have been made under the provisions of the Local Authorities (Standing Orders) Regulations 1993) may be suspended so far as regards any business at the meeting where the suspension is moved.

**22.2** A motion to suspend these Council Procedure Rules shall not be moved without notice under Rule 3.6 unless there shall be present at least half of the whole number of the members of the Council.

## **23. INTERPRETATION OF RULES**

**23.1** The ruling of the Mayor as to the construction or application of the Council's Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of the Constitution contained in Article 1 thereof.

**23.2** Any reference in these rules to a committee includes a sub-committee and also, for the avoidance of doubt, the following:-

- the Overview and Scrutiny Committee
- the Audit Committee
- the Standards Committee
- the Tree Panel
- an Area Partnership

## **24. INTERESTS**

Any Councillor who has a personal interest defined by any relevant code of conduct whether national or local in any matter shall forthwith disclose that interest but may remain, speak and vote unless the interest is prejudicial as prescribed by any such code, in which case he/she shall withdraw from the room.

# **ACCESS TO INFORMATION PROCEDURE RULES**

## **1. SCOPE**

These rules apply to all meetings of the Council, the Overview and Scrutiny committee, Area Partnerships, the Standards, the Audit and the Regulatory committees of the Council and public meetings of the Cabinet (together called meetings).

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

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

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

Members of the public may attend all meetings subject only to the exceptions in these Rules, or as otherwise provided by the law.

## **4. NOTICES OF MEETING**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Guildhall Northampton (the designated office).

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the move words in brackets to end of paragraph summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

## **6. SUPPLY OF COPIES**

### **6.1 The Council will supply copies of:-**

- 6.1.1 any agenda and reports which are open to public inspection;
- 6.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.1.3 if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

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

7.1 The Council will make available copies of the following for six years after a meeting:

- 7.1.1 the minutes of the meeting (or records of decisions taken, together with reasons, for all meetings of the Cabinet), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose Exempt or Confidential information;
- 7.1.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 7.1.3 the agenda for the meeting; and
- 7.1.4 reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Proper Officer (which for these specific purposes shall be the Director or Chief Officer responsible for the initiation of the report) will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which disclose Exempt or Confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of any political advisor.

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF RIGHTS OF THE PUBLIC**

These Rules and the Guidelines for Open Government constitute a summary of the rights of the public to attend meetings and to inspect and copy documents.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information - requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that Confidential Information (as defined in paragraph 10.3) would be disclosed.

### **10.2 Exempt information - discretion to exclude public**

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

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

### **10.3 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **10.4 Meaning of Exempt Information**

Exempt Information means information falling within the following 15 categories (subject to any condition):

#### **Part 1**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed upon a person; or (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Part 2**

### **Qualifications to the above exempt information:**

- (a) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Acts 1965 – 1978 (e) the Building Societies Act 1986 (f) The Charities Act 1993.
- (b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (c) Information which – (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt by virtue of paragraph (a) or (b) above is exempt information if an so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

### **12. APPLICATION OF RULES TO THE CABINET**

Rules 13-24 apply to the Cabinet and any committees of the Cabinet. If the Cabinet or its committees (if any) meet to take a Key Decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 13.3 of this Constitution.

If the Cabinet meet to discuss a Key Decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief members.

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

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- a notice (called here a Forward Plan) has been published in connection with the matter in question;

- at least three clear days have elapsed since the publication of the Forward Plan; and
- where the decision is to be taken at a meeting of the Cabinet notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

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

Forward Plans will be prepared by and on behalf of the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the following month covered in the preceding Plan.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, any committee of the Cabinet, individual members of the Cabinet (if appropriate), officers, Area Partnerships or under Joint arrangements in the course of the discharge of an executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- 14.2.1 the matter in respect of which a decision is to be made;
- 14.2.2 where the decision taker is an individual (if so delegated by the Council), his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- 14.2.3 the date on which, or the period within which, the decision will be taken;
- 14.2.4 the identity of any principal groups whom the decision taker proposes to consult before taking the decision;
- 14.2.5 the means by which any such consultation is proposed to be undertaken;
- 14.2.6 the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- 14.2.7 a list of the documents submitted to the decision taker for consideration in relation to the matter.
- 14.2.8 where in relation to any matter the public may be excluded from the meeting, particulars of that item save that no Confidential or Exempt information shall be disclosed.

**14.3** The Forward Plan must be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- 14.3.1 that Key Decisions are to be taken on behalf of the Council;
- 14.3.2 that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- 14.3.3 that the plan will contain details of the Key Decisions to be made for the four month period following its publication;
- 14.3.4 that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- 14.3.5 that each Forward Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the Plan;
- 14.3.6 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- 14.3.7 that other documents may be submitted to decision takers;
- 14.3.8 the procedure for requesting details of documents (if any) as they become available; and
- 14.3.9 the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt Information need not be included in a Forward Plan and Confidential Information cannot be included.

## **15. GENERAL EXCEPTION**

15.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- 15.1.1 the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- 15.1.2 the Proper Officer has informed the Chair of the Overview and Scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- 15.1.3 the Proper Officer has made copies of that notice available to the public at the offices of the Council; and

15.1.4 at least five clear days have elapsed since the Proper Officer complied with Rules 15.1.1 and 15.1.2.

Where such a decision is taken collectively, it must be taken in public.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual possessing delegated authority) or the chair of the body making the decision, obtains the agreement of the chair of the Overview and Scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of an Overview and Scrutiny committee, or if the chair of the Overview and Scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When the Overview and Scrutiny committee can require a report**

If the Overview and Scrutiny committee thinks that a Key Decision has been taken which was not:

17.1.1 included in the Forward Plan; or

17.1.2 the subject of the general exception procedure; or

17.1.3 the subject of an agreement with a relevant Overview and Scrutiny committee chair, or the Mayor/Deputy Mayor of the Council under Rule 16;

17.1.4 in accordance with the Council's adopted Budget or Policy Framework

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the committee when so requested by the chairman or any 2 members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny committee.

### **17.2 Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and, if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**



In any event the Leader will cause to be submitted quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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

19.1 Normally Cabinet meetings will be held in public save and except in respect of those matters covered by Rules 10.1 and 10.2 of the Procedure Rules or other exceptional circumstances.

19.2 This rule does not apply to decisions which are delegated to an individual Cabinet Member. Such decisions will not be taken in public unless they are key decisions or request has been made for them to be heard in public under the protocol related to such decisions.

## **20. NOTICE OF PRIVATE MEETING OF THE CABINET**

Members of the Cabinet will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **21. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

### **21.1 Overview and Scrutiny Committee Members**

21.1.1 Notice of private meetings of the Cabinet will be served on the chair of the Overview and Scrutiny committee, at the same time as notice is served on members of the Cabinet. Where the Overview and Scrutiny committee does not have a chair, the notice will be served on all the members of that committee.

21.1.2 Any member of the Council may attend a meeting of the Cabinet as an observer without the right to speak or vote, except when a matter in respect of which they would be required to declare a personal and prejudicial interest is to be discussed in the absence of the public.

21.1.3 Any member of the Council who has exercised the right to call-in and up to two nominated members of the Overview & Scrutiny Committee making a recommendation to the Cabinet arising therefrom may, subject to the Council Procedure Rules, address the Cabinet thereon and respond thereto

### **21.2 Officers**

- 21.2.1 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- 21.2.2 A private Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND BY OFFICERS**

### **22.1 Reports intended to be taken into account**

In relation to decisions which are delegated to individual members of the Cabinet where such an individual member receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

### **22.2 Provision of copies of reports to the Overview and Scrutiny committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of the Overview and Scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

### **22.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a Key Decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provision of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of Exempt or Confidential information or advice from a political assistant.

## **23. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, the Overview and Scrutiny committee (including any sub-committee) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

23.1.1 any business transacted at a public or private meeting of the Cabinet or any committees; or

23.1.2 any decision taken by an individual member of the Cabinet.

## **23.2 Limit on rights**

The Overview and Scrutiny committee will not be entitled to:

23.2.1 any document that is in draft form;

23.2.2 any part of a document that contains Exempt or Confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or

23.2.3 the advice of a political adviser (if any).

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

### **24.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees (if any) and contains material relating to any business previously transacted at a private meeting unless either Rule 24.1.1 or 24.1.2 below applies.

24.1.1 it contains Exempt Information falling within categories 1, 2, 5 or 7 of the categories of Exempt Information; or

24.1.2 it contains the advice of a political adviser.

Provided that this Article shall not preclude any other rights which a member may have to such document (c.f. Council Procedure Rule 14)

### **24.2 Material relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet (or its committees (if any) which relates to any Key Decision unless Rule 24.1.1 or 24.1.2 above applies.

### **24.3 Nature of rights**

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

# GUIDELINES FOR OPEN GOVERNMENT

## 1. OPEN MEETINGS

The Council, its Cabinet, committees and sub-committees shall be open to the Press and public to the extent provided by the Council's Constitution.

## 2. CONFIDENTIALITY OF REPORTS

Every effort shall be made to ensure that as many reports as possible are not treated as Exempt and that such reports are made available at the earliest opportunity.

## 3. ACCESS TO REPORTS

Subject to the detailed provisions of the Constitution:-

3.1.1 The Cabinet, all Council committee/sub-committee agendas and non-confidential reports shall be available to the public upon attendance at any meeting.

3.1.2 All Council committee and sub-committee agendas, non-confidential reports and lists of background papers shall be available for inspection at the Council's principal office .

3.2 The Meeting Services Officer shall mail agendas, reports and minutes as aforesaid to any community group or individual who has notified him/her in writing of a wish to receive them, and (in the case of an individual) has offered to reimburse the postage.

3.3 All reports shall where possible be circulated with the agenda as soon as practical after notice of a meeting has been given.

## 4. ACCESS TO FULL COUNCIL

4.1 The Council shall at an ordinary meeting:

4.1.1 give an opportunity for members of the public to question Councillors on any matter in relation to which the Council has powers or duties provided that notice of an initial question (in contrast to any supplementaries) shall have been given in accordance with Part 4 of the Council's rules of procedure; and

4.1.2 may by a majority of members then present resolve to receive an individual or a deputation of not more than six people to address it upon a motion before the meeting provided that:

- (i) maximum of two individuals or representatives from a deputation will be allowed to speak on any one motion

- (ii) such address on any one item shall not exceed three minutes in duration; and
- (iii) no member of the public will be allowed to speak more than once at the same meeting unless there are exceptional circumstances that the Mayor deems relevant; and
- (iv) proposed speakers have given notification, in writing, e-mail or fax to Meeting Services by 12 noon on the working day before the Council meeting of their intention to speak; and
- (v) the Leader, Portfolio Holder or appropriate Chair shall forthwith be given an opportunity or respond to a public question or they may decline to do so.

4.1.3 The right to speak on a motion will be based on the order the motion is received by Meeting Services.

4.1.4 The Mayor will have the discretion to allow particular speakers, with expertise in relevant areas to speak on a motion if appropriate.

#### **Access to the Cabinet, Council committees and sub-committees:**

4.2 The Cabinet, any committee or sub-committee may by a majority of the members then present at any meeting resolve to

4.2.1 receive a deputation; and/or

4.2.2 permit representatives of any such deputation or any other member of the public to address it upon any item on that meeting's published agenda (except where the Executive, committee or sub-committee is required to follow a statutory procedure in relation to that item or the exercise thereof would prejudice the Council's duty to act quasi-judicially). Such addresses on any one item shall not without the specific consent of the Committee or other body exceed three minutes in duration. Immediately after such address the Leader, Chair of the committee or sub-committee shall give each of its members an opportunity to question the person who has addressed them provided that the overall period for such questions and any answers shall be kept within a reasonable limit by the Chair. In respect of Planning Committee the procedures for public speaking in relation to applications are set out in paragraph 3.6 of the Probity in Planning Protocol.

#### **Access to Officers:**

4.3 All Council correspondence shall clearly state the name and telephone number of the officer actually dealing with the matter.

4.4 All officers shall be expected to volunteer their names, designations and telephone numbers to all members of the public with whom they are dealing.

4.5 Officers receiving an enquiry from a member of the public which is related to another employee shall either seek to transfer the enquiry immediately, or accept it and arrange

for the correct officer to contact the enquirer direct. Members of the public should not be passed from one Directorate to another or left to negotiate the Council's organisation unaided.

## **5. ACCESS TO INFORMATION**

The Council shall have procedures in place for ensuring that requests for information are dealt with in accordance with the Freedom of Information Act 2000.

## **6. PUBLIC INVOLVEMENT AND PUBLIC MEETINGS**

- 6.1 The Council shall seek to maximise public involvement in decision making, using whatever means seems most appropriate in all the circumstances.
- 6.2 Directors in consultation with the Leader or Chairs as the case may be, shall have the responsibility for clearly identifying matters appropriate for public consultation and shall, where necessary, seek the advice of the Chief Executive.
- 6.3 Where public meetings are used as a means of public consultation the basic conditions set out in the Appendix shall apply.
- 6.4 The Council retains the responsibility to make the final decision having taken into account the views expressed as a result of public consultation.

## **APPENDIX**

### **PUBLIC MEETINGS**

1. All public meetings must be notified to the Chief Executive who shall have been consulted thereon and then be responsible for the arrangements.
2. Every group likely to be interested in the subject matter of a public meeting must be provided with publicity material giving at least the information set out in 3 below sufficiently in advance of the meeting for a proper discussion to take place within the group.
3. The publicity materials for a public meeting should include the following:
  - The issues involved
  - The precise purpose of the meeting
  - Who has been invited
  - A contact point or telephone number to obtain further information
  - What will happen to the views expressed at the meeting.
4. Material provided at the meeting itself must be in a form which is visible and understandable to all members of the audience.

5. Council representatives should make it clear how the Council intends to follow up the meeting and how those attending can establish the position regarding the subject matter following the meeting.

**NB: THESE GUIDELINES ARE ADDITIONAL TO ALL EXISTING STATUTORY RIGHTS.**

# HANDLING OF CUSTOMER COMPLAINTS

The Council shall have in place procedures for handling complaints. Copies of the procedure are available from the customer feedback team (telephone 01604 837441) or email [customerfeedback@northampton.gov.uk](mailto:customerfeedback@northampton.gov.uk) or on the Council's website.



# BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

## 1. The framework for Executive decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

## 2. Process for developing the Budget and Policy framework

- 2.1 The Cabinet will publicise by including in the Forward Plan, publishing at the Council's offices and by other methods - e.g. on its web site, in the local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The chair of the Overview and Scrutiny committees will also be notified.
- 2.2 At the end of the consultation period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny committee has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Overview and Scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response. In considering the matter the Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny committee.
- 2.3 Once the Cabinet has approved the firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision.
- 2.4 In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- 2.5 If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- 2.6 The decision will be publicised to Members and a copy shall be given to the Leader.
- 2.7 An in-principle decision will automatically become effective five days from the date of the Council's decision, unless the Leader informs the Proper Officer in writing within three days that he/she objects to the decision becoming effective and provides reasons why.

- 2.8 In that case, the Proper Officer will call a Council meeting within a further three days. The Council will be required to re-consider its decision and the Leader's written submission. The Council may
- 2.8.1 approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - 2.8.2 approve a different decision, which does not accord with the recommendation of the Cabinet by a simple majority.
- 2.9 The decision shall then be publicised to Members, and shall be implemented immediately;
- 2.10 In approving the Budget and Policy Framework, the Council may also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with the Council's Financial Procedure Rules. Any other changes to the Policy and Budgetary Framework are reserved to the Council, except for those outlined in paragraph 6.

### **3. Decisions outside the Budget and Policy Framework**

- 3.1 Subject to the provisions of the Council's regulations for in-year changes, the Cabinet, committees of the Cabinet and any officers, Area Partnerships or other arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- 3.2 If the Cabinet, committees of the Cabinet and any officers, Area Partnerships or other arrangements discharging executive functions want to make such a decision, they shall take advice from the Chief Finance Officer and/or the Monitoring Officer (as appropriate) as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent decisions outside the budget or policy framework**

- 4.1 The Cabinet, officers or Joint Arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- 4.1.1 if it is not practical to convene a quorate meeting of the full Council; and
  - 4.1.2 if the chair of the Overview and Scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the relevant Overview and Scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of the Overview and Scrutiny committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

- 4.2 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. Virement**

Provision for, and the scope, of virement is contained in the Financial Procedure Rules forming part of this Constitution.

#### **6. In-year changes to the Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet or officers or any other arrangements discharging executive functions must be compatible with it. No changes to any policy and/or strategy, which make up the Policy Framework, may be made by those bodies or individuals except those changes which the Council may agree can be made by those bodies or individuals of the time the plan or strategy is approved or adopted.

#### **7. Call-in of decisions outside the Budget or Policy Framework**

- 7.1 Where the Overview and Scrutiny committee is of the opinion that Cabinet decision is, or, if made, would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Chief Finance Officer and/or the Monitoring Officer.
- 7.2 In respect of functions which are the responsibility of the Cabinet, any report of the Chief Finance Officer and/or the Monitoring Officer shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Chief Finance Officer Monitoring Officer's report and to prepare a report to Council in the event that the Chief Finance Officer or the Monitoring Officer conclude that the decision was a departure, and

to the Overview and Scrutiny committee if the Chief Finance Officer or the Monitoring Officer conclude that the decision was not a departure.

- 7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Finance Officer and/or the Monitoring Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet as soon as practicable after the request by the Overview and Scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Finance Officer and/or the Monitoring Officer. The Council may:
- 7.3.1 endorse a decision or proposal of the Cabinet as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - 7.3.2 amend the Council's Financial Procedure Rules or policies concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - 7.3.3 where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Chief Finance Officer or the Monitoring Officer as the case may be.

# FINANCIAL PROCEDURE RULES

## 1. GENERAL

- 1.1 These Regulations shall bind the Chief Executive and all Directors of the Council and their respective Directorates. References to Directors shall be deemed also to include reference to the Chief Executive where appropriate. .
- 1.2 Directors are responsible for the accountability and control of employees and the security, custody and control of all other resources, including plant, buildings, materials, cash and stores under their control or under the control of that Directorate.
- 1.3 Where any area of activity is undertaken in a competitive environment, whether by statute or by decision of the Council, the Regulations relating to financial planning and budgetary control shall be construed on the basis that the primary requirement is to ensure that the financial targets set out in the Revenue Estimates are achieved.
- 1.4 Directors are responsible for ensuring that all employees in their department/directorate are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Directorate.
- 1.5 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Councillors, employees and others acting on behalf of the Council are required to follow.
- 1.6 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be over-ridden. The statutory duties arise from:
  - Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Accounts and Audit Regulations 1996
- 1.7 The Chief Finance Officer is responsible for:
  - the proper administration of the Council's financial affairs
  - setting and monitoring compliance with financial management standards
  - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - providing financial information

- preparing the revenue budget and capital programme
- treasury management

1.8 **Section 114** of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full council, Executive and external auditor if the Council or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- the Chief Finance Officer to nominate a properly qualified Officer to deputise should he or she be unable to perform the duties under Section 114 personally
- the Council to provide the Chief Finance Officer with sufficient officers, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

## **2. FINANCIAL PLANNING AND BUDGET**

- 2.1 The Cabinet shall receive formal capital and revenue estimates for such future periods, in such form and by such dates as the Budget and Policy Procedures and Rules shall require.
- 2.2 The detailed form of capital and revenue estimates shall be determined by the Chief Finance Officer within the general framework of the Budget and Policy Procedure Rules and after consultation with the Corporate Management Team.
- 2.3 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- 2.4 With respect to reports to the Cabinet or a Committee, failure to submit a report having financial implications to the Chief Finance Officer (or his/her nominee) for his/her observations prior to inclusion on an agenda will render such report liable to be withdrawn. Under such circumstances the report will stand deferred until the next meeting of the Cabinet or relevant Committee.
- 2.5 It is the responsibility of all Directors of the Council to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report variances within their own areas to the Chief Finance Officer. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

2.6 Where it appears that the amount of any head of estimate of expenditure may be exceeded, or the amount of any head of income may not be reached, it shall be the duty of the Director responsible for such head, immediately to inform the Chief Finance Officer, Cabinet or relevant committee, as the case may be.

### **3. BUDGETARY CONTROL**

3.1 The Cabinet, a Director, a committee or a sub-committee may not incur expenditure which cannot be met from an amount provided in the revenue estimates under a Head of Estimate (including any revenue virement approved in accordance with Rules 3.2 or 3.8) to which that expenditure would be charged, or would result in an overspending in the year on that Head of Estimate, unless a request for a supplementary estimate has been submitted to and approved by the relevant approving body (requests for supplementary estimates must include the source of funding i.e. revenue fund balance, reserves etc). A "Head of Estimate" shall be the subject analysis within an objective head as published in the public Revenue Estimates Book. This regulation shall apply to a reduction in income as to an increase in expenditure.

#### ***Breach of this Regulation will be considered a serious breach of duty.***

3.2 Subject to the provisions of Rule 3.8, amounts provided "under the several Heads of the annual revenue Estimates" shall not be vired to other purposes by the Director or Director committee or Councillor concerned without :

3.2.1 Where the amount does not exceed £20,000 from a service budget in the current financial year, the approval of the Chief Finance Officer (such approval to be subsequently reported by him/her to the Cabinet)

3.2.2 Where the amount exceeds £20,000 but does not exceed £50,000 from a service budget in the current financial year, the approval of the Chief Finance Officer after consultation with the portfolio holder responsible for Finance and relevant portfolio holder(s) such approval to be subsequently reported by him/her to the Cabinet.

3.2.3 Where the amount is in excess of £50,000 or impacts on future financial years, the approval of the Cabinet.

3.3 No Director not the Cabinet or committee as the case may be shall approve or recommend approval of, a request for virement if it is contrary to the policy of the Council,

3.4 Control of expenditure within the Subjective Analysis shall be with the Director concerned. The Director will keep a record of all such virements so authorised, with the exception that "windfall" income (eg rate refunds) shall not be used for viremental purposes without appropriate authority.

3.5 Budget adjustments between different Subjective Analysis within an objective head shall also be on the authority of the Director concerned, but only to a maximum of £10,000 from a subjective category within a budget in any financial year. The Director concerned shall also keep a record of all such authorisations.

- 3.6 In each case, a copy of the virements and budget adjustments so approved shall be forwarded directly to the Chief Finance Officer, or such other accounting agent who may be so designated, for entry into the Council's Financial Information System.
- 3.7 All other requests for virement shall be subject to Rule 3.2 and all requests for virement (including those referred to above) shall be subject to Rule 3.3.
- 3.8 Nothing in these regulations shall prevent the incurring of expenditure which is essential to meet any immediate needs created by a sudden emergency, subject to its action being reported to the Cabinet forthwith.
- 3.9 Items within the Capital Programme shall not be varied, by the addition, deletion or material modification of any project until the same has been submitted to, and approved, by the Cabinet with such committees being made fully aware of the revenue consequences to the Council in the current and future financial years.

#### **4. ACCOUNTANCY**

- 4.1 All accountancy procedures and records of the Council and its employees necessary to comply with its statutory operation shall be determined by the Chief Finance Officer. Where such procedures and records are to be maintained other than under the direct control of the Chief Finance Officer, the Chief Finance Officer (or nominee) shall, before making any determination, agree his/her requirements with the Director concerned.
- 4.2 Each Director shall keep such records as required by the Chief Finance Officer, to enable the Chief Finance Officer (or nominee) to compile the accounts of the Council and complete all necessary financial and statistical returns.
- 4.3 Financial records shall not be destroyed or otherwise disposed of other than in accordance with arrangements approved by the Chief Finance Officer.
- 4.4 In so far as any "in-house" trading or partnership/consortium operation is concerned, Directors responsible for operations shall discuss with the Chief Finance Officer (or nominee) their proposals for the proper accounting treatment and recording of transactions and shall agree with the Chief Finance Officer (or nominee) the method of financial reporting, both for committee and for wider consumption. In all matters relevant to accounting treatment and financial requirements, the Chief Finance Officer shall be the final arbiter in accordance with his statutory powers.
- 4.5 The following principles shall be observed in the allocation of financial duties:-
  - 4.5.1 The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
  - 4.5.2 Employees charged with the duty of examining and checking the accounts of cash transactions shall not themselves be employed in any of these transactions.



## **5. AUDIT**

- 5.1 A continuous internal audit, under the direction of the Chief Finance Officer, shall be arranged to provide an examination of accountancy, financial and other systems and procedures of the Council.
- 5.2 The Chief Finance Officer, or the appointed internal auditors, shall have authority to:-
  - 5.2.1 Enter at all reasonable times on any Council premises or land;
  - 5.2.2 Have access to all systems, records, documents and correspondence relating to all financial and other transactions of the Council;
  - 5.2.3 Require and receive such explanations as are necessary concerning any matter under examination; and,
  - 5.2.4 Require any officer of the Council to produce cash, stores or any other Council property under their control.
- 5.3 Wherever any matter arises which involves, or is thought to involve, criminal irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, the Director concerned shall forthwith notify the Chief Finance Officer and the Chief Executive, who shall take such steps as they jointly consider necessary by way of investigation and report.

## **6. CONTRACTS FOR BUILDING, CONSTRUCTIONAL OR ENGINEERING WORK**

- 6.1 Where contracts provide for payment to be made by instalments, the keeping of a contract register or registers is required to show how much has been paid on each contract between the Council and the contractor, together with any other payments and the related professional fees.
- 6.2 Payments to contractors on account of contracts shall be made only on a certificate issued by the appropriate employee or consultant (where engaged by the Council), as appropriate, or by other employees nominated in writing for the purpose.
- 6.3 Subject to the provisions of the contract in each case, every extra or variation, shall, unless otherwise evidenced to his/her satisfaction, be authorised in writing by the relevant Director (or his authorised nominee) and itemise the cost implications where possible.
- 6.4 The Chief Finance Officer (or nominee) shall, to the extent he/she considers necessary, arrange for the examination of final accounts for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as may be required in order to satisfy himself/herself as to the accuracy of the accounts and any issue of a final certificate shall be subject to this.
- 6.5 Claims from contractors which are the subject of dispute within the terms of any existing contract, shall be referred to the Solicitor to the Council (or nominee) for consideration of

the Authority's legal liability and, where necessary, to the Chief Finance Officer (or nominee) for financial consideration, before a settlement is reached.

- 6.6 Where completion of a contract is delayed, it shall be the duty of the relevant Director, (nominee) or the technical officer, or the contracting agent concerned, to take appropriate action in respect of any claim for liquidated damages.

## **7. INCOME**

- 7.1 The procedure for the collection of all money due to the Council shall be determined by the Chief Finance Officer.
- 7.2 Each Director shall furnish the Chief Finance Officer (or nominee) with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required by the Chief Finance Officer (or nominee) to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.
- 7.3 The Chief Finance Officer (or nominee) shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and the Chief Finance Officer (or nominee) shall have the right to inspect any documents or other evidence in this connection as the Chief Finance Officer may decide or determine.
- 7.4 All pre-printed receipt forms, books, tickets and other controlled items shall be ordered to the satisfaction of the Chief Finance Officer, who shall also be satisfied, either directly or through his/her nominee, as to the arrangements for their control.
- 7.5 All money received by an employee on behalf of the Council shall, without delay, be paid to the Chief Finance Officer (or nominee), or as may be directed, to the Council's banking or National Giro account or transmitted directly to any other body or person entitled thereto.

No deduction may be made from such money save to the extent that the Chief Finance Officer may specifically authorise.

- 7.6 Personal cheques shall not be cashed out of the money held on behalf of the Council.
- 7.7 Every transfer of official money from one employee to another shall be evidenced in the records of the Directorate(s) concerned by the signature of the receiving employee.

## **8. RISK MANAGEMENT**

- 8.1 The Cabinet is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- 8.2 The Chief Finance Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the authority and for advising the Cabinet on proper insurance cover where appropriate.
- 8.3 The Chief Finance Officer (or nominee), shall effect all insurance cover.
- 8.4 Directors shall give prompt notification to the Chief Finance Officer (or nominee), of all new risks, properties, or vehicles which are required to be insured and of any alterations affecting existing insurances.
- 8.5 Directors shall forthwith notify the Chief Finance Officer (or nominee) in writing of any loss, liability or damage or any event likely to lead to an insurance claim.
- 8.6 The Chief Finance Officer, either directly or through his/her nominee shall annually, or at such other period as may be considered necessary, review all insurances in consultation with other Directors as appropriate.
- 8.7 Directors shall consult the Chief Finance Officer (or nominee) in respect of the terms of any indemnity which the Council is requested to give.

## **9. ORDERS FOR WORK, GOODS AND SERVICES**

- 9.1 Subject to the overarching requirements of the Contract Procedure Rules and any documentation in compliance therewith, official Orders shall be issued for all work, goods or services to be supplied to the Council, except for supplies of public utility services, periodical payments such as rent or rates, petty cash purchases, or such other exceptions as the Chief Finance Officer may approve.
- 9.2 Authorisation to commit the Council to expenditure shall be through the proper authorisation of a requisition describing the goods and services to be acquired duly authorised in accordance with the Requisition describing the goods and services to be acquired duly authorised in accordance with the Requisition Authorisation Schedule.
- 9.3 Leasing (including operational leasing) shall be subject to the approval of the Chief Finance Officer.
- 9.4 Details of each Order shall, if so required, be available to the Chief Finance Officer (or nominee).

## 10. PAYMENT OF ACCOUNTS

- 10.1 Apart from petty cash, payment or purchasing card, the normal method of payment of money due from the Council shall be by Bankers Automated Clearing Systems (BACS), cheque or other instrument drawn on the Council's banking accounts or other properly authorised electronic transfer.
- 10.2 In respect of Orders raised via systems other than the Core Business Systems (CBS) the Director issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources within his/her Directorate. Such certification shall be in manuscript by, or on behalf of, the Director. The names of employees authorised to sign such records shall be sent to the Chief Finance Officer (or nominee) by each Director, together with specimen signatures and shall be amended on the occasion of any change thereto.
- 10.2.1 In respect of orders raised using CBS the invoice will be matched against the order and goods received note details for quantity and price. Where these match within tolerances agreed by the Chief Finance Officer or the invoice value is below £100 (excluding VAT) the invoice may be passed for payment on the due date without further authorisation being required.
- 10.2.2 For invoices not matched supplementary authorisation will still be required. This authorisation will be electronic by entry on CBS rather than by manual signature on the invoice document.
- 10.3 Before certifying an account, the certifying employee shall, save to the extent that the Chief Finance Officer may otherwise agree or determine, have satisfied himself/herself that:-
- 10.3.1 The work, goods or services to which the account relates have been received, carried out, examined and approved;
- 10.3.2 The prices, extensions, calculations trade discounts, other allowances, credits and tax are correct;
- 10.3.3 The relevant expenditure has been properly incurred and is within the relevant estimate provision;
- 10.3.4 Appropriate entries have been made in inventories, stores records or stock books as required; and,
- 10.3.5 The account has not been previously passed for payment and is a proper liability of the Council.
- 10.4 Duly certified accounts shall be passed without delay to the Chief Finance Officer's nominee who shall examine them to the extent that the Chief Finance Officer deems necessary, for which purpose the nominee shall be entitled to make such enquiries and to receive such information and explanations as may be required.

- 10.5 Any amendment to an account shall be made in ink and initialled by the employee making it, explaining briefly the reasons where they are not self-evident.
- 10.6 Any claim for payment relating to goods and services (as described at 9.1) will only be processed where it quotes the Council's Official Order Number. Any invoices not quoting this number shall be returned to the supplier.
- 10.6.1 All payments shall be processed as described in 10.6 unless there is an exemption agreed by the Chief Finance Officer. Exemptions have been granted in respect of precepts, Council Tax refunds, Business Rates refunds, Rent refunds, grants, non-payroll payments to employees, ex-gratia payments, court orders, payment of monies held on account, payroll disbursements, housing association grants, petty cash reimbursements, housing improvement grants, treasury management, car loans, housing benefit, insurance claims, utilities, cheque with order.

## **11. IMPREST ACCOUNTS**

- 11.1 The Chief Finance Officer shall authorise and provide such imprest accounts as considered appropriate to such officers of the Council as may need them for purposes of defraying petty cash and other expenses.
- 11.2 No income received on behalf of the Council may be paid into an imprest account, but must be banked or paid to the Council as provided elsewhere within these regulations.
- 11.3 Payments from imprests shall be limited to minor items of expenditure and to such other items as the Chief Finance Officer (or nominee) may approve and shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require.
- 11.4 Officers responsible for imprest accounts shall, if so requested, provide to the Chief Finance Officer (or nominee) a certificate as to the state of that imprest account.
- 11.5 When an officer ceases to be responsible for the holding of an imprest, the appropriate Director shall ensure that the imprest account is balanced, the cash holding agreed and paid to the Chief Finance Officer (or nominee) or transferred to the employee, who is to take over the account and the Chief Finance Officer informed of the change.

## **12. BANKING ARRANGEMENTS AND CHEQUES**

- 12.1 All arrangements with the Council's bankers shall be made by, or under arrangements approved by, the Chief Finance Officer, who shall be authorised to operate such banking accounts, including National Giro accounts, as may be considered necessary.
- 12.2 All bank accounts of the Council including National Giro accounts shall include the full or abbreviated name of the Council in the account title.
- 12.3 Cheques to be drawn on the Council's main banking accounts, including National Giro accounts, shall be ordered only on the authority of the Chief Finance Officer, who shall ensure proper arrangements for their safe custody. Such cheques shall bear the facsimile

signature of the Chief Finance Officer or be countersigned by the Chief Finance Officer or by such other officer as he/she authorises so to do.

12.4 Where the value of any authorised payment exceeds £25,000 then the payment documents will be independently checked and countersigned by an authorised signatory.

### **13. SECURITY**

13.1 Directors are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under their control.

13.2 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without express permission.

13.3 Keys to safes and similar receptacles are to be kept in the possession of the person responsible at all times; the loss of any such keys must be reported to the Chief Finance Officer forthwith.

13.4 The principles of data protection legislation shall be strictly observed at all times.

### **14. STOCKS AND STORES**

14.1 Each Director shall be responsible for the care and custody of the stocks and stores within his/her Directorate.

14.2 Stocks shall not be in excess of normal or specific operational requirements unless it is in the financial interests of the Council.

14.3 Directors shall arrange for periodical test examination of stocks by persons other than storekeepers as required by the Chief Finance Officer (or nominee).

14.4 The Chief Finance Officer (or nominee) shall be entitled to receive from each Director such information as may be determined in relation to stores, for the accounting, costing and financial recording thereof. Surplus materials, stores or equipment shall be disposed of as appropriate to ensure the best return to the Council.

14.5 An inventory shall be maintained and updated in each Directorate and Divisional Managers shall notify the addition and movement of inventory items under their control.

### **15. TREASURY MANAGEMENT**

15.1 The Council adopts the key recommendations of CIPFA's *Treasury Management on the Public Services: Code of Practice* (the Code), as described in Section 4 of that Code.

15.2 Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies and objectives of its treasury management activities

- suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

15.3 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs.

15.4 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer who will act in accordance with the Council's policy statement and TMPs and, CIPFA's *Standard of Professional Practice on Treasury Management*."

15.5 All investments of money under its control shall be made in the name of the Council unless otherwise approved on behalf of the Council.

15.6 All securities, being the property of, or in the name, of the Council, or its nominees, and the title deeds of all property in its ownership, shall be held in the custody of the Solicitor to the Council or under arrangements agreed by him/her.

15.7 All borrowings shall be effected in the name of the Council.

## **16. SALARIES, WAGES AND PENSIONS**

16.1 The payment of all salaries, wages, pensions, compensation, travel and subsistence and other emoluments to all employees, or former employees, of the Council, shall be made by the Chief Finance Officer (or nominee) or under arrangements approved by him/her.

16.2 The Chief Finance Officer (or nominee) shall be notified by the appropriate Director as soon as possible, and in a form prescribed, of all matters affecting the payment of such emoluments, and in particular:-

16.2.1 appointments, resignations, dismissals, suspensions, secondments and transfers;

16.2.2 absences from duty for sickness or other reasons, apart from approved leave;

16.2.3 changes in remuneration, other than normal increments and pay awards and agreements of general application; and

16.2.4 information necessary to maintain records of service for pension, income tax, national insurance and the like.

16.3 Appointments of all employees shall be made in accordance with the policies of the Council and the approved establishments, grades and rates of pay.

16.4 All time records or other pay documents of employees shall be in a form prescribed or approved by the Chief Finance Officer (or nominee) and shall be certified in manuscript by or on behalf of the Director concerned. The names of officers authorised to sign such records shall be sent to the Chief Finance Officer (or nominee) by each Director, together with specimen signatures, and shall be amended on the occasion of any change.

## **17. EX GRATIA AND OTHER SPECIAL PAYMENTS**

17.1 The Chief Executive may, on the recommendation of a Director, or at either of their discretions, make payments by way of compensation, or in settlement of claims by employees, in respect of loss or damage to clothing or personal belongings, which has occurred at work or in the course of the performance of an employee's duties and which was not caused by the employee's fault or negligence.

17.2 The Chief Finance Officer shall have authority to make special payments, without the prior approval of the Council, the Cabinet or a committee of the Council, whether or not provision has been made in the approved estimates, in the following cases:-

17.2.1 payments specifically required by statute;

17.2.2 payments under a court order;

17.2.3 payments under agreement entered into by and on behalf of the Council;

17.2.4 payments made on the advice of the Solicitor to the Council and/or appropriate Director, in the settlement of any action or claim against the Council.

## **18. VOLUNTARY FUNDS**

18.1 A voluntary fund is any fund other than an official fund of the Council, which is controlled, wholly or in part, by an employee by reason of his or her employment with the Council.

18.2 Each Director shall make himself/herself aware of all voluntary funds involving employees under his/her control and shall make arrangements for the proper management of such funds.

## **19. EXTERNAL FUNDING**

19.1 The Chief Finance Officer, or his/her nominee must be advised of all external funding opportunities available to the Council and of the lead officer in each circumstance.

19.2 The Chief Finance Officer, or his/her nominee is required to authorise either generally or specifically all external funding applications prior to their submission by the Council.

19.3 The Chief Finance Officer or his/her nominee must be notified of the outcome of external funding applications at the earliest opportunity.



### Schedule of Authorisation Limits

Ref	Description	Applicable to	Value
3.2	Approval of virement relating to current year budget only	Cabinet	>£50,000
3.2	Approval of virement relating to future years	Cabinet	>£0
3.2	Approval of virement relating to current year	Chief Finance Officer in consultation with Portfolio Holder for Finance and relevant Portfolio Holder(s)	>£20,000 to £50,000
3.2	Approval of virement relating to current year budget only	Chief Finance Officer	<=£20,000
3.5	Budget adjustments	Director	<=£10,000
10.2.1	De minimis limit for automatic matching		£100
12.4	Payment value requiring counter signature		>£25,000

# CONTRACT PROCEDURE RULES

## 1. INTRODUCTION

1.1 These Rules are made in pursuance of the Council's Statement of Procurement Policy and as part of the Constitution of the Council adopted in accordance with the requirements of the Local Government Act 2000, their purpose being to provide a clear regulatory Code for the procurement of: -

- goods**
- works**
- services**

for the Council which will ensure a framework of openness, integrity, and accountability and evidence the probity and transparency of the process.

1.2 They are intended to provide optimum value for money and objectively demonstrate that the Council is fulfilling its fiduciary responsibilities.

## 2. DEFINITIONS

- "Authorised Officer"

A person with appropriate delegated authority to act on behalf of the Council

- "Best Value for Money"

The optimum combination of whole life costs and benefits to meet the Council's requirements. (Such term equates to the EU procurement reference to the "most economically advantageous offer")

- "PQQ"

A Pre-Qualification Questionnaire

- "Framework Agreement"

An agreement which allows the Council to call off from a supplier supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself would usually constitute a non-binding offer with no obligations on the Council to call off from the Supplier. If the Council calls off from the Supplier a binding contract comes into being.

- “ITT”

Invitation to Tender

- “Regulations”

The UK regulations implementing the EU Public Procurement Directives

- “RFQ”

Request for Quotations

- “Supplier”

Any person or body of persons providing or seeking to provide suppliers, services or works to the Council

### **3. COMPLIANCE**

3.1 The Council, all of its employees and also external consultants acting on its behalf, shall be under a general duty in all circumstances to: -

- ensure fair competition,
- observe due propriety, and
- obtain Best Value for Money both in monetary terms and in respect of efficiency and suitability

in relation to all Contracts made on behalf of the Council for the supply of goods, services and works, which for such purposes shall include: -

- schemes;
- agreements;
- orders; or
- other written authorisation to third parties

and references to a Contractor shall include any: -

- person or
- company or
- other organisation

who supplies goods, services and works irrespective of whether any or all of the more detailed provisions of these Rules are applicable thereto.

3.2 Every Contract entered into by the Council shall be entered into pursuant to or in connection with the Council’s functions and shall comply with:

3.2.1 all relevant statutory provisions;

- 3.2.2 the relevant European procurement rules (i.e. the EC Treaty, the general principles of EU law and the EU public procurement Directives implemented by the UK Regulations);
- 3.2.3 the Constitution, including these Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegations, and
- 3.2.4 the Council's
- Best Value objectives required by the Local Government Act 1999
  - strategic objectives,
  - Statement of Procurement Policy
  - Procurement Strategy,
  - Procurement Code of Practice,
  - Individual policies relevant to the procurement in question
- 3.3 The highest standards of probity are required of all employees and Members involved in the procurement, award and management of Council Contracts and all Council members, employees and third parties engaged on the Council's behalf must also ensure that any conflicts of interest are avoided and that both employees and Members comply with the Members and Officers Codes of Conduct contained in this Constitution.
- 3.4 Members and employees must not accept from contractors or potential contractors or from any firm or organisation with whom the Council has had, is having or may have any dealings of any kind:-
- 3.4.1 any gift (other than an inexpensive seasonal gift such as a calendar or diary for use in the office); or
- 3.4.2 any hospitality without the written authorisation of a Director, Monitoring Officer or Chief Finance Officer, and Members and employees should comply with the Council's Code of Conduct in this respect.
- 3.5 Employees of the Council must immediately enter in a register kept for this purpose by the Solicitor of the Council particulars of:
- 3.5.1 any gift (including how it has been returned to the giver or otherwise disposed of eg donated for charitable purposes); and
- 3.5.2 any hospitality
- 3.6 Hospitality includes drink, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car or a taxi or refreshments in the course of office duty (e.g. working lunch).

#### **4. DELEGATED AUTHORITY**

- 4.1 Any Procurement carried out behalf of the Council may only be undertaken by employees with the appropriate delegated authority to carry out such tasks. Such employees shall be

informed by his/her Director of the extent of any delegated authority and any applicable financial thresholds for each Procurement.

- 4.2 Within approved budgets Authorised Officers may authorise other employees to place orders against Framework Agreements which have been entered into by the Council.
- 4.3 Any Contract Award which constitutes a Key Decision as defined in the Council's Constitution or which otherwise falls above the relevant threshold levels or which involves any potential transfer of the Council's employees to a Supplier shall be referred for a decision from the Cabinet, unless forming part of a previous approval by the Council, Cabinet or other relevant Committee.

## **5. EXCEPTIONS**

- 5.1 The following Contract Procedure Rules will apply to all contracts made by the Council which are estimated to exceed £50,000 in value (such value taking into account the value or consideration for the same for the whole contract period) except: -
  - 5.1.1 Contracts of Employment.
  - 5.1.2 Contracts relating to dealings in land (including letting of premises).
  - 5.1.3 Contracts where the Council is to be reimbursed through an insurance policy and the requirements of the insurer are complied with.
  - 5.1.4 Contracts where the Council is acting as an agent authority and the requirements of the principal are complied with.
  - 5.1.5 Contracts where the goods, services or works to be procured are: -
    - 5.1.5.1 obtained through or on behalf of a consortium, association or other similar body of which the Council is a member or from time to time becomes a member
    - 5.1.5.2 proprietary or patented goods, services or works sold only at a fixed price from one contractor or being of a specialist nature where no reasonable satisfactory alternative is available
    - 5.1.5.3 necessary as a result of unforeseen emergencies which the Chief Executive considers would involve immediate risk to persons, property or serious disruption to Council services
    - 5.1.5.4 the subject of a specific policy decision
  - 5.1.6 Subject to compliance with Rule 3, the placing of orders by users for goods or services which are negotiated by the Council's Procurement Advisors in accordance with the authority from time to time vested in them by the Council.

5.1.7 Any other exemption from any of these Rules may be made by direction of the Council, Cabinet, committee, or as authorised by Rule 34. A record of any such exemption from any of the provisions of the Rules together with the specific reasons therefore shall be included within the minutes of the Council, the Cabinet or such committee by which the exemption was made, or, in the event of the proposed exercise of any delegation by any employee, a formal report in like form shall be submitted to the Chief Finance Officer and Monitoring Officer and prior written acquiescence by both in such proposed exception shall be necessary.

## **6. PRE-PROCUREMENT PROCEDURE**

6.1 Before commencing procurement, it is essential that the Authorised Officer leading the procurement has identified the need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy and Procurement Policy as appropriate.

6.2 Before undertaking a procurement the Authorised Officer shall:

- (a) consider all other means of satisfying the need (including recycling and re-use where appropriate);
- (b) consider whether there is an appropriate Framework Agreement which should be used; and
- (c) establish a business case for the procurement.

6.3 Before commencing any proposed procurement process the Authorised Officer shall

- (a) Consult the relevant Portfolio Holder where the procurement impinges significantly and directly on the public or may be considered controversial or is likely to have significant budgetary implications or involve transfer of employees
- (b) Consult the Council's procurement Advisors or Solicitor to the Council where the value of any contract is likely to be in excess of £20,000
- (c) Consult with the Solicitor to the Council in respect of any EU Procurement rules and any other legal or related issues

and have regard to any advice, procedures and requirements arising from such consultation and in particular to the need for any EU Procurement requirements and formalities to be carried out directly by the Solicitor to the Council.

## **7. ESTIMATING THE CONTRACT VALUE**

7.1 For the purposes of these Rules the value of any Contract shall be taken as the value or consideration for the Contract as a whole over the contract period.

7.2 The Council should make the best use of its purchasing power by aggregating purchases wherever possible. Particular supplies, services or works shall not be split in an attempt to avoid the applicability of these Rules or the EU Regulations.

**8. LOW VALUE PROCUREMENT (BELOW £50,000)**

8.1 The number and nature of the competitive quotations required for contracts or orders with an estimated value of below £50,000 are detailed within the Procurement Code of Practice.

Goods, Services or Works Contract Value		Type of enquiry/tender/contract
From (£)	To (£)	
0	100	No quotation required
101	2,000	Quotation from a minimum of two suppliers. Prices are to be recorded on a quotation sheet.
2,001	20,000	Written quotations from a minimum of three suppliers.  A faxed or e-mailed quotation will be acceptable.
20,001	50,000	Written quotations from a minimum of three suppliers. The enquiry should contain a simple form of the Council's Terms and Conditions.

8.2 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement.

8.3 Any procurement which may involve a transfer of staff shall be treated as a High Value Procurement.

**9. HIGH VALUE PROCUREMENT (GREATER THAN £50,000)**

9.1 For procurements valued at above £50,000, a Contract Award Procedure shall be conducted in accordance with these Rules.

9.2 Prior to the commencement of the Contract Award Procedure the Authorised Officer shall develop a procurement approach, which shall set out the information requirements detailed within the Procurement Code of Practice.

9.3 One of three Contract Award Procedures shall be used as appropriate for the particular procurement i.e. Open, Restricted or Negotiated, and the Solicitor to the Council shall be consulted as to the appropriate procedure.

## **10. CONTRACTS SUBJECT TO THE EU REGULATIONS**

- 10.1 Where an estimated value of a Contract exceeds the relevant current EU threshold then the Contract shall be tendered in accordance with the Regulations. Under the Regulations, the Contract may be tendered under the Open, Restricted or, in the exceptional circumstances set out in the Regulations, the Negotiated Procedure. A Contract Notice in the prescribed form shall be published in the OJEU.
- 10.2 The Regulations set out the minimum timescales for the receipt of expressions of interest and tenders. Where the Council has published a Prior Information Notice, then the Council may rely on reduced timescales if appropriate, the Solicitor to the Council being the determinor of this and any other interpretation or application of the EU Regulations.

## **11. INVITATION TO TENDER**

- 11.1 The Council shall only enter into a contract with a Supplier if it is satisfied as to the Supplier's:
- 11.1.1. eligibility;
  - 11.1.2. financial standing; and
  - 11.1.3. technical capacity.
- 11.2 Technical capacity includes the Supplier's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the Contract.
- 11.3 Any procurements subject to the Regulations shall comply with the appropriate Regulations.
- 11.4 The ITT shall include details of the Council's requirements for the particular contract including:
- 11.4.1 a description of the services, suppliers or works being procured;
  - 11.4.2 the procurement timetable, including the return date and time, which shall allow a reasonable period for applicants to prepare their tenders;
  - 11.4.3 a specification and instructions on whether any variants are permissible;
  - 11.4.4 the Council's Terms and Conditions of Contract, which must be approved by the Solicitor to the Council;
  - 11.4.5 the evaluation criteria, including any weightings as considered appropriate;
  - 11.4.6 the pricing mechanism and instructions for completion;
  - 11.4.7 if relevant, whether the Council is of the view that TUPE may apply;



- 11.4.8 the form and content of any method statements to be provided;
- 11.4.9 rules for submission of tenders;
- 11.4.10 An assessment whether a Performance Bond and/or Parent Company Guarantee (if applicable) shall be required from the preferred Tenderer;
- 11.4.11 In consultation with the (*Councils Risk Manager*) the appropriate type (employee liability, public liability, professional indemnity etc) and level of insurance required for the Contract;
- 11.4.12 any further information which will inform or assist tenderers in preparing tenders.

## **12. SUBMISSION AND OPENING OF TENDERS**

- 12.1 Tenders shall be submitted in accordance with the requirements set out in the ITT. Any tenders received shall be addressed to the Solicitor to the Council in a sealed envelope endorsed with the word 'Tender' followed by the subject matter to which it relates. Tenders shall be kept in a safe place by the Solicitor to the Council and remain unopened until the time and date specified for their opening. No tenders received after the specified date and time for receipt of tenders shall be accepted or considered by the Council unless the Solicitor to the Council is satisfied that there is sufficient evidence for the tender having been despatched in sufficient time for it to have arrived before the closing date and time.
- 12.2 Tenders shall be opened by the Authorised Officer and at least one other employee nominated by the Solicitor to the Council. An immediate record should be made of the tenders received including names, addresses and the date and time of opening.
- 12.3 Tender documents shall state the nature and purpose of the contract for which tenders are invited, specify the last date and time when tenders will be received and state that the Council reserves the right not to accept any tender or to accept a tender other than the lowest where payment is to be made by the Council or the highest where payment is to be received by the Council.

## **13. ELECTRONIC TENDERING**

- 13.1 RFQ's, PQQ's and ITTs should wherever practical be issued to tenderers by electronic means.
- 13.2 Tenders may be submitted by electronic means provided that:-
  - 13.2.1 evidence that the transmission was successfully completed is obtained and recorded;
  - 13.2.2 each tender submitted electronically is supplemented by an identical signed hard copy original submitted in the manner prescribed in the advertisement or the ITT documents before the tender return date; and

13.2.3 electronic tenders are kept in a separate secure folder under the control of the Solicitor to the Council, which is not opened until the deadline has passed for receipt of tenders.

#### **14. ERRORS IN TENDERS**

Where an error is found in a tender before acceptance, details of it shall be given to the tenderer and they shall be given an opportunity of confirming or withdrawing their offer. In the case of genuine arithmetical errors discovered before acceptance, the tenderer may be given the chance to correct the error, but no other adjustment, revision or qualification is permitted in respect of such errors.

#### **15. TENDER EVALUATION**

15.1 Where appropriate, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders.

15.2 Tenders shall be evaluated in accordance with the relevant Regulations (if any) and the evaluation criteria set out in the ITT and in all cases shall be awarded on the basis for Best Value for Money to the Council. The evaluation criteria shall be predetermined and listed in the ITT documentation, in order of importance if applicable. In addition, the criteria shall be strictly observed at all times throughout the Contract Award Procedure by any employee involved in tender evaluation.

#### **16. BONDS, GUARANTEES AND INSURANCE**

16.1 For High Value Procurements, the Corporate Manager for Financial Asset Management Solicitor to the Council shall consider as part of the pre-qualification assessment and evaluation process whether a Performance Bond and/or a Parent Company Guarantee (if applicable) shall be required from the preferred Tenderer.

16.2 The Authorised Officer shall consider in consultation with the Council's Risk Manager the appropriate type (employee liability, public liability, professional indemnity etc) and level of insurance requirements for each Contract.

#### **17. POST-TENDER NEGOTIATION**

17.1 Where a procurement is conducted pursuant to the EU Regulations through either the Open or Restricted procedures no post-tender negotiations are permitted. The Council may however seek clarification from Suppliers where appropriate.

17.2 At all times during the procurement (whether subject to the Regulations or not), employees shall consider and implement the principles of non-discrimination, equal treatment and transparency

#### **18. DEBRIEFING**

The Authorised Officer responsible for each procurement shall provide appropriate information to unsuccessful tenderers on written request, consulting the Council's Procurement Advisors on the form and content of such information where necessary.

## **19. CONTRACT AWARD NOTICE**

Where a Contract has been tendered pursuant to the Regulations, the Solicitor to the Council shall publish a Contract Award Notice in OJEU within the relevant time scales appropriate thereto.

## **20. LETTERS OF INTENT**

Letters of Intent shall only be used in exceptional circumstances as follows:

- (a) where a tenderer is required to provide services, supplies or works prior to formal written acceptance by the Council; or
- (b) where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

And may only be issued by the Solicitor to the Council after the Authorised Officer has obtained any necessary Council and financial consents to do so.

## **21. CONTRACT TERMS AND CONDITIONS**

Contracts shall be entered into on the Council's terms and conditions, which shall be included with each ITT. Exceptions to this must be approved by the Solicitor to the Council.

## **22. ACCEPTANCE OF TENDERS**

- 22.1 Low Value Contracts may only be accepted by employees with the requisite delegated authority for these purposes after the Authorised Officer has ensured that the relevant budget holder has sufficient funds in place to sustain the Contract.
- 22.2 In the case of High Value Contracts the Chief Executive or the Solicitor to the Council in conjunction with the Director concerned shall have power to accept the lowest tender if payment is to be made by the Council **provided that** such tender does **not** exceed or fall short of the approved estimate as the case may be.

- 22.3 In all cases where it is proposed to accept other than the lowest tender if payment is to be made by the Council, or the highest tender if payment is to be received by the Council save and except in those cases where an award is made under Rule 15 in accordance with predetermined criteria detailed in the tender documents, no acceptance shall take place until the Council, Cabinet (as Cabinet Members if delegated powers apply), the committees, sub-committee, or Monitoring Officer and Chief Finance Officer in exercise of their powers under Rule 5.1.7 shall have considered a report from the appropriate employee or other relevant person indicating their recommendation and objectively justifying this, regard being taken in such evaluation both to any EU procurement requirements in respect of the most economically advantageous tender in respect of such contract and also the general duty on the Council to procure best value as reflected (if applicable) in any individual conditions of tender.
- 22.4 An acceptance letter for all contracts exceeding £50,000 in value shall only be issued by the Solicitor to the Council).

### **23. EXECUTION OF CONTRACTS**

- 23.1 In the case of contracts for the supply of goods or materials or the execution of works of a value or amount in excess of £250,000 the award of which is specifically a Key Decision requiring an individual validation as such by the Cabinet or the Council it shall be a further requirement for the purposes of Section 135 of the Local Government Act 1972 as applied by the Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) England Order 2001 NOT ONLY that such contracts SHALL BE IN WRITING BUT be either under the seal of the Council or shall be signed on behalf of the Council by any two of the following officers, namely the Solicitor to the Council, the Chief Executive, the Chief Finance Officer and the Legal Services Operations Manager. PROVIDED THAT for the avoidance of doubt formal contracts exceeding £50,000 in value shall be signed by one of the foregoing.
- 23.2 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Solicitor to the Council.

### **24. RECORDS OF TENDERS AND CONTRACTS**

- 24.1 The Authorised Officer with delegated authority in respect of a particular procurement shall maintain a list of all tenders received.
- 24.2 The Authorised Officer must notify the Council's Procurement Advisors with the details of the award of every Contract above £20,000.
- 24.3 A contracts register of all Contracts awarded above £20,000 shall be maintained by the Corporate Manager for Finance and Asset Management. The contracts register may be maintained electronically.
- 24.4 For every individual contract a contracts file shall be maintained.

## **25. APPROVED LISTS**

The Council may maintain or have maintained on its behalf approved lists or equivalent arrangements of Suppliers which meet its pre-qualification requirements. Quotations and tenders for contracts which are not subject to the Regulations may be invited from Suppliers included on such list. Where the Council intends to use such a list for services, supplies or works contracts, the selection of which suppliers should be included on such list should itself be advertised.

## **26. NOMINATED AND NAMED SUB-CONTRACTORS**

- 26.1 If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main Supplier quotations or tenders must be invited in accordance with these Rules and the terms of the invitation shall be compatible with the main Contract. The terms of the invitation shall require an undertaking by the tenderer that, if it is selected, it will be willing to enter into a Contract with the main Supplier on terms which indemnify the main Supplier against its own obligations under the main Contract in relation to the work or goods included in the sub-Contract and enter into an agreement to indemnify the Council in such terms as may be prescribed.
- 26.2 The relevant Director, or other authorised person, shall nominate to the main Supplier the person whose tender it is, in his/her opinion, the most satisfactory; provided that, where the tender is other than the lowest received, the circumstances shall be reported and recorded as provided by Rule 26

## **27. FRAMEWORK AGREEMENTS**

Framework Agreements may be used where the Council wishes to contract for the supply of supplies, services or works without conducting a new procurement exercise. However, the Framework Agreement may include within its terms a requirement for a mini-competitive exercise between those Suppliers who are parties to the Framework Agreements. Any Framework Agreement shall be tendered in accordance with these Contract Procedure Rules. Where the Council has entered into such a Framework Agreement or is able to call off from existing Framework Agreements procured through joint procurement arrangements, then it may utilise the same without entering into a separate procurement.

## **28. JOINT PROCUREMENT**

- 28.1 Any joint procurement arrangements with other Local Authorities or public bodies including membership or use of Purchasing Consortia shall require the sanction of the Cabinet (or Cabinet Member if delegated powers apply).
- 28.2 Approval shall only be given where the joint procurement arrangement assures compliance with these Rules.

## **29. PROCUREMENT BY CONSULTANTS**

- 29.1 Any consultants used by the Council shall be appointed in accordance with these Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the relevant Authorised Officer shall ensure that such consultants carry out any procurement in accordance with the same. No consultant shall make any decision on whether to award a Contract or to whom a Contract should be awarded. The Authorised Officer shall ensure that the consultant's performance is monitored.
- 29.2 The Chief Executive must give approval for the appointment of any consultant.

## **30. STATISTICAL RETURNS**

- 30.1 Each year the Council is required to make a statistical return to the Office of the Deputy Prime Minister for onward transmission to the European Commission concerning the contracts awarded during the year under the EU Rules.
- 30.2 The Solicitor to the Council shall be responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Directors shall comply with these arrangements and expeditiously provide any information required.

## **31. CONTRACT EXTENSION**

- 31.1 Any contract may be extended in accordance with its terms. Any other extensions shall require the approval of Cabinet (or Cabinet Member if delegated powers apply), relevant Committee or be otherwise authorised in accordance with these Rules and must also comply with the Regulations if applicable.
- 31.2 The Authorised Officer shall always be satisfied that extension will achieve Best Value for Money and is reasonable in all the relevant circumstances. Such extension must be approved in writing by the Solicitor to the Council.

## **32. TERMINATION OF CONTRACT**

The Solicitor to the Council must be consulted with regard to any termination or proposed termination of any Contract.

## **33. DISPOSAL OF ASSETS**

Where the estimated value of an asset or collection of assets is £30, 000 or more, or where the Council, Cabinet (or Cabinet Member if delegated powers apply), or committee determine, the disposal of land, property, plant and equipment shall be either by the invitation of tenders by public notice or public auction except where a valuer with relevant qualifications certifies that an alternative method of disposal will better achieve the Council's aims and objectives and in any event all such disposals shall comply with the general duties referred to in Rule 3 hereof.

**34. WAIVERS OF CONTRACT PROCEDURE RULES**

Waivers of any of these Contract Procedure Rules shall only be given in exceptional circumstances and only with the prior formal written approval of the Monitoring Officer and Chief Finance Officer, after submission of a report by the Authorised Officer formally justifying such validation and providing an adequate audit trail in respect thereof.

**35. REVIEW AND AMENDMENT OF CONTRACT PROCEDURE RULES**

These Contract Procedure Rules shall be reviewed on a periodic basis, and form part of the Council's Constitution which can only be amended by the Council on recommendation from the Cabinet (or Cabinet Member if delegated powers apply).

# CABINET PROCEDURE RULES

## 1. HOW DOES THE CABINET OPERATE?

### 1.1 Who may make Executive decisions?

The arrangements for the discharge of executive functions are set out in the Executive Arrangements adopted by the Council. In either case, the Arrangements may provide for executive functions to be discharged by:

- 1.1.1 the Cabinet as a whole;
- 1.1.2 any committee of the Cabinet (if so expressly delegated by the Council);
- 1.1.3 an individual member of the Cabinet. (The Leaders Scheme of Delegations in Part 8 of the Constitution sets out the arrangements in this regard).
- 1.1.4 an officer;
- 1.1.5 Area Partnerships (within any delegated authority)
- 1.1.6 Joint Arrangements; or
- 1.1.7 another Local Authority.

### 1.2 Sub-delegation of Executive functions

- 1.2.1 Where the Cabinet, any committee of the Cabinet or an individual member of the Cabinet may be responsible for an executive function, they may delegate further to an Area Partnership, by Joint Arrangements or to an officer.
- 1.2.2 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 1.3 Conflicts of Interest

- 1.3.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 1.3.2 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 1.3.3 If the exercise of an executive function has been delegated to any committee of the Cabinet, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by



whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.4 Cabinet meetings - when and where?**

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's principal offices or another location to be agreed by the Leader.

#### **1.5 Public or private meetings of the Executive?**

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

#### **1.6 Quorum**

The quorum for a meeting of the Cabinet, or any committee of the Cabinet shall be one quarter of the total number of members of the Cabinet (including the Leader), or three including the Leader, whichever is the larger.

#### **1.7 How are decisions to be taken by the Executive?**

- 1.7.1 Executive decisions which fall to be taken by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- 1.7.2 If executive decisions are to be taken by a committee of the Cabinet the same rules shall apply as those applying to the Cabinet as a whole.

### **2. HOW ARE CABINET MEETINGS CONDUCTED?**

#### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

#### **2.2 Who may attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

#### **2.3 What business?**

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

- 2.3.1 consideration of the minutes of the last meeting;
- 2.3.2 declarations of interest, if any;
- 2.3.3 matters referred to the Cabinet (whether by the Overview and Scrutiny committee or by the Council) for reconsideration by the Cabinet in accordance

with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

- 2.3.4 consideration of reports from the Overview and Scrutiny committee; and
- 2.3.5 matters set out in the agenda for the meeting, which shall indicate which involve Key Decisions and which not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework should, if appropriate, contain details of the nature and extent of any consultation with stakeholders and the Overview and Scrutiny committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Who can put items on the Cabinet agenda?**

- 2.5.1 The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- 2.5.2 Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 2.5.3 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Overview and Scrutiny committee.
- 2.5.4 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **3. OVERVIEW & SCRUTINY**

In respect of Call-In, Reports, Reviews and Recommendations from the Overview and Scrutiny Committee the Cabinet shall comply or procure compliance with the relevant provisions of the Overview and Scrutiny Procedure Rules relevant thereto

# OVERVIEW AND SCRUTINY PROCEDURE RULES

## 1. **What will be the number and arrangements for Overview and Scrutiny committees?**

The Council will have a single Overview and Scrutiny Committee as set out in Article 6.

## 2. **Membership of the Overview and Scrutiny Committee?**

The Overview and Scrutiny Committee will be made up of members. No member of Cabinet may sit on the Committee. A member may not be involved in scrutinising a decision in which he/she has been directly involved.

## 3. **Meetings of Overview and Scrutiny Committees**

The Overview and Scrutiny Committee shall meet normally six times in each year. In addition, other meetings may be called from time to time as and when appropriate. Such a meeting may be called by the chair of the Committee, by any 2 members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## 4. **Quorum**

The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## 5. **Who chairs Overview and Scrutiny Committee meetings?**

The appointment of Chairs will comply with the general provisions as to Chairs set out in the Council Procedure Rules.

## 6. **Protocols**

The Overview and Scrutiny Committee will abide by and apply those Protocols relevant to Committee's work and contained in Part 5 of the Constitution

## 7. **Work programme**

Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on the Committee who are not members of the largest political group on the Council, and the wishes of Cabinet. Requests from Elected Members and/or the public will also be taken into account, if appropriate.

## 8. **Agenda items and References from Cabinet**

Any member of the Overview and Scrutiny Committee shall be entitled to give formal notice giving the reasons therefor to the Proper Officer that he/she wishes an item

relevant to the functions of the Committee to be included on the agenda for the next available meeting of such Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Cabinet. Any such request shall be directed to the Chair of the Overview and Scrutiny Committee. The Committee shall report their findings and any recommendations back to Cabinet and/or the Council as the case may be. The Council and/or the Cabinet shall consider any report of the Overview and Scrutiny Committee as soon as possible thereafter.

## **9. Policy review and development**

- 9.1 The role of the Overview and Scrutiny Committee 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.
- 9.2 In relation to the development of other matters not forming part of the Council's Policy and Budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet if they see fit.
- 9.3 Subject to the relevant budgetary constraints the Overview and Scrutiny Committee may hold enquiries and investigate the available budgetary options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may, subject to such budgetary constraints, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. 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.

## **10. Reports, Recommendations and Reviews from Overview and Scrutiny Committee**

- 10.1 Once they have formed recommendations on proposals for review or development, the Overview and Scrutiny committee will prepare a formal report with any recommendations and it will be submitted through the Chair for consideration by the Cabinet (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework) as appropriate. They may nominate one or two members to address the Cabinet thereon.
- 10.2 If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or, the Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet (as the case may be) with the majority report.
- 10.3 The Council or the Cabinet, as the case may be, shall consider reviews and any recommendations or reports of the Overview and Scrutiny Committee as soon as practicable thereafter and determine whether to accept some or all of them. Having considered them they should determine the effect of their decision(s); where

recommendations are rejected reasons should be provided, and where accepted named officers (where appropriate) should be instructed to implement them. The Cabinet should provide a written response from the Leader or relevant Portfolio Holder (who may instruct an appropriate officer to make the response on their behalf) to the Chair of the Overview and Scrutiny Committee explaining the outcome of the recommendations and any effect on their decisions.

## **11. Making sure that Scrutiny reports are considered by the Cabinet**

- 11.1 The agenda for the Cabinet meetings shall include an item entitled "Issues arising from Scrutiny". Any reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- 11.2 Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its report for consideration by the Cabinet or the Council depending upon whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the report is referred to Council, a copy will also be served on the Leader with notice that the matter is to be referred to Council. The Cabinet will have 4 weeks in which to respond to such Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on such a matter which would impact on the Budget and Policy framework, it shall also consider the response of the Cabinet to the proposals.

## **12. Rights of Overview and Scrutiny Committee members to documents**

- 12.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 12.2 Nothing in these Rules prevents more detailed liaison between the Cabinet, and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **13. Councillors and officers giving account**

- 13.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions save that, as provided by Article 6, Overview and Scrutiny Committees shall not scrutinize individual decisions of other committees of the Council, particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider policy review and shall not act as an appeal forum in respect of any such individual decisions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain:

13.1.1 any particular decision or series of decisions;

13.1.2 the extent to which the actions taken implement Council policy;

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

- 13.2 Where any Councillor or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 13.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

#### **14. Attendance by others**

The Overview and Scrutiny Committee may invite people other than those people referred to in Rule 12 above to address it, 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 shall invite such people to attend.

#### **15. Call-in**

- 15.1 When a decision is made by the Cabinet or individual Cabinet Members or the Chief Executive (key decisions) or a Key Decision is made by an officer with delegated authority from the Cabinet or Council or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three days of being made. The Chair of the Overview and Scrutiny Committee will be sent a copy of the records of all such decisions within the same timescale.
- 15.2 That notice will bear 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 three working days after the publication of the decision, unless the Overview and Scrutiny Committee exercise the right to call-in within that period.
- 15.3 During that period, the Proper Officer shall call-in a decision for scrutiny by the Committee if so requested by the Chair or formally by any two members of the Council, and shall then notify the decision-taker of the call-in. The Proper Officer shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair or in the absence of the Chair the Deputy-Chair of the Committee, and in any case such meeting shall be held within seven working days of the

decision to call-in although, in the exceptional circumstances the period could be extended to twenty-one days at the discretion of both the Chief Executive and the Monitoring Officer (such decision to extend the time limit and the reason would need to be formally recorded in writing). The member or members requesting such call-in shall have the right to speak at such meeting, as shall the Leader and relevant Portfolio Holder or Holders.

- 15.4 If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or, in the case of decisions outside the Council's Budget and Policy Framework, refer the matter to full Council as provided in the Budget and Policy Framework Procedure Rules. If referred to the decision making person or body they shall then reconsider as soon as reasonably practicable amending the decision or not, before adopting a final decision, which shall not then be subject to further call-in (provided that if such decision shall negate the previous decision or propose a significantly or entirely different final alternative course of action to that previously considered by the decision taker and Overview and Scrutiny Committee, such further action shall, notwithstanding the foregoing, be capable also of being called in.) In all cases of reference back, the Cabinet (or other decision making person or body), shall formally advise the Overview and Scrutiny Committee of their consideration of such referral and their final decision.
- 15.5 If following the call in of a decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny meeting, or the expiry of the period in which the Overview and Scrutiny Committee should have met, whichever is the earlier.
- 15.6 If the matter was referred to full Council as provided herein and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it will have no power to alter the decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget.

Unless that is the case the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making person or body shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider as soon as possible thereafter. Where a decision was made by an individual, the individual will reconsider within three working days of the Council request.

- 15.7 If the Council does not meet, or if it does but does not refer the decision back to the decision making person or body, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- 15.8 In the event that a Cabinet decision has been taken by an Area Partnership (having delegated power so to do) then the right of call-in shall extend to any other Area



Partnership which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Committee for consideration in accordance with these provisions. An Area Partnership may only request the Proper Officer to call-in the decision of another Area Partnership if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised in accordance with 14.3 above.

## 15.9 Exceptions

In order to ensure that a call-in is not abused, nor causes unreasonable delay, a formal request from two members of the Council to the Proper Officer in writing giving the reasons for such request is required for a decision to be called in. (except in the case of a call in by the Chair of Overview and Scrutiny Committee or a call in under 14.8 above.

## 15.10 Call-in and Urgency

The call-in procedure set out above shall **not** apply where the decision being taken is **urgent**. 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's 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 therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor'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 to the next available meeting of the Council, together with the reasons for urgency.

15.11 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report may be submitted to Council, with any proposals for review if necessary.

## 16. The Party Whip

When considering any matter in respect of which a member of the Overview and Scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17. Procedure at Overview and Scrutiny Committee meetings

17.1 The Overview and Scrutiny Committee shall consider the following business:

17.1.1 minutes of the last meeting;

17.1.2 declarations of interest (including whipping declarations);

17.1.3 consideration of any matter referred to the committee by way of call-in;

17.1.4 responses of the Cabinet or Council to reports of the Overview and Scrutiny Committee; and

17.1.5 the business otherwise set out on the agenda for the meeting.

17.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to contribute at Committee meetings, which are to be conducted in accordance with the following principles:

17.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

17.2.2 that those assisting the Committee by giving evidence or otherwise contributing be treated with respect and courtesy; and

17.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

17.3 Following any investigation or review, the Committee shall prepare a report of any recommendations or conclusions in the name of the Chair, for submission to the Cabinet and Council as appropriate and shall make its report and findings public.

## **18. Panels or “Task and Finish” Groups**

18.1 The Overview and Scrutiny Committee may set up panels (which may be referred to as “task and finish” groups) to assist the Committee in carrying out reviews. Such panels will be given a brief for the work they are required to do, and will be wound up once the task is completed and they have reported back to the Committee.

18.2 Councillors who are not members of the Overview and Scrutiny Committee may and normally will be approached to sit on the panels. The Overview and Scrutiny Committee may specify who will chair a panel, or may leave the panel to select their own chair.

18.3 The provisions of 16.2 above shall apply with the necessary modifications to the meetings of such panels.

## **19. PRIVATE MATTERS**

Where reports, documents or advice have been dealt with by the Cabinet or a Committee in private pursuant to Section 100 (1) of the Local Government Act 1972 they shall, in the absence of prior consent from the Cabinet or Committee concerned, be dealt with in like manner by any Overview and Scrutiny Committee considering the same.

# EMPLOYMENT PROCEDURE RULES

## 1. Recruitment and appointment

### 1.1 Declarations

1.1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or employee of the Council; or of the partner of such persons.

1.1.2 No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Director or an officer nominated by him/her.

### 1.2 Seeking support for appointment

1.2.1 Subject to Rule 3, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this Rule will be included in any recruitment information.

1.2.2 Subject to Rule 3, no Councillor will seek support for any person for any appointment with the Council.

## 2. Recruitment of Head of Paid Service and certain other officers

Where the Council proposes to appoint a Head of Paid Service (to be styled Chief Executive), a Director, Chief Finance Officer or Monitoring Officer or other officer within the definitions referred to in paragraph 3 of Part II of the First Schedule to the Local Authorities (Standing Orders)(England) Regulations 2001 and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1 draw up a statement specifying:

2.1.1 the duties of the officer concerned; and

2.1.2 any qualifications or qualities to be sought in the person to be appointed;

2.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

2.3 make arrangements for a copy of the statement mentioned in Rule 1 to be sent to any person on request.

### **3. Appointment of Head of Paid Service**

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

### **4. Appointment of Chief Officers and certain other officers**

4.1 A committee or sub-committee of the Council will appoint the Officers referred to in Rule 2. That committee or sub-committee must include at least one member of the Executive.

4.2 An offer of employment to such officers shall only be made where within a specified period of time no well-founded and maternal objection from any member of the Executive has been received.

### **5. Other appointments**

#### **5.1 Other officers**

Appointment and dismissal of other employees (excluding assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

#### **5.2 Assistants to political groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **6. Disciplinary action**

6.1 **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than two months.

6.2 **Independent person.** No other disciplinary action may be taken in respect of any of those employees except in accordance with a recommendation in a report made by a designated independent person.

6.3 Councillors will not be involved in disciplinary action against any officer other than the foregoing except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

## **7. Appointments and Dismissals**

Appointments and Dismissals of officers within Rule 2 must further comply with the formalities and procedures contained in Part II of the First Schedule of the Local Authorities (Standing Orders)(England) Regulations 2001 so far as applicable to such appointment or dismissal.

## **8. Dismissal**

Councillors will not be involved in the dismissal of any officer other than the foregoing except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Councillors in respect of dismissals.