

Part 4

Rules of Procedure

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General Procedure Rules

General Procedure Rules

1. Definition and Description

- (a) In these Procedure Rules, unless the contrary intention appears, the following expressions will mean:

“The Act” means the Local Government Act 1972.

“Clear Day(s)” excludes Saturdays and Sundays, Bank and Statutory Holidays, the day on which notice is given or the petition is presented and the day of the meeting.

“Committee” means a decision-making group of Members set up by the Council

“Sub-Committee” means a decision-making sub group of Members set up by the Councillor the parent Committee.

2. Order of Seniority of Members

Members of the Council will rank in the following order of Seniority at Civic functions.

- The Mayor
- The Deputy Mayor
- The **Leader**; and
- Councillors, according to their date of election (those elected at the same time ranking according to alphabetical order.

If a person after ceasing to be a Member of the Council is subsequently re-elected within four years, his seniority will be determined by the total length of his service as a Member of the Council.

3. Records of Proceedings/Photographs

- (a) No-one will take photographs of any proceedings of any meetings of the Authority occurring after the public have been excluded in accordance with the provisions of Section 100(A) of the Act or use any means to enable persons not present to see or hear any such proceedings (whether at the time or later), nor make any oral report on such proceedings as they take place.

(b) **Audio and Visual Recordings**

While the meeting is open to the public, any person attending the meeting may film, audio record, take photographs and use social media and the internet to report on meetings as they are taking place in accordance with the guidance set out in Appendix 5 to the Access to Information Procedure Rules.

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1. Annual Meeting of The Council

1.1 Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

The Annual Meeting will:

- (a) Elect a person to preside if the Mayor or Deputy Mayor is not present;
- (b) Elect the Mayor;

NB: 1. The outgoing Mayor continues in that post until a successor is elected. If the Mayor is to continue as a Member of the Council following the Annual Meeting, s/he may vote in the election for a successor but if there is an equality of votes, must exercise a casting vote to break a tie. If the Mayor is not to continue as a Member of the Council after the Annual Meeting but is present to preside over the election of a successor, he cannot vote in the election, but if there is an equality of votes, he must give a casting vote to break the tie. (Section 4(5) of the Local Government Act 1972).

2. If the outgoing Mayor is not present at the Annual Meeting, the Deputy Mayor will preside. The same rules which apply to the Mayor, with regard to voting in the election of the new Mayor, apply. If neither Mayor or Deputy Mayor is present, the Council will elect a Chair to preside over the meeting, whilst the new Mayor is elected. Such a Member may exercise an initial and second or casting vote.

3. A candidate for election to the Office of Mayor cannot preside over the election of the Mayor.

- (c) Elect the Deputy Mayor;
- (d) Approve and sign the minutes of the last meeting;
- (e) Receive any announcements from the Mayor;
- (f) Elect the Leader;

- (g) To note the number and names of those Members appointed by the Leader to the Cabinet ;
- (h) To note the Member appointed by the Leader as Deputy Leader;
- (i) Appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, of this Constitution) and appoint a Chair and Vice Chair for each;
- (j) Agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (k) Approve a programme of ordinary meetings of the Council for the year; and
- (l) Consider any business set out in the notice convening the meeting.

1.2 **Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council will:

- (a) Decide which Committees to establish for the municipal year;
NB: Details of the Committees, Sub-Committees, Groups and Forums to be constituted and the procedure for recommending their composition etc. are contained in Procedural Decisions relating to Non-Executive Committees etc.
- (b) Decide the size and terms of reference for those Committees;
- (c) Decide the allocation of seats and the scheme of substitutes to political groups in accordance with the political balance rules;
- (d) Receive the names of Councillors appointed to seats available to Groups from Group Leaders in accordance with the political balance requirements and the names of Councillors to serve on each Committee and Outside Bodies; and
NB: The Procedure to be followed by the Council and Groups is contained in Procedural Decisions Relating to Non-Executive Committees etc. as set out in Appendix (iii) to the Procedure Rules.

- (e) Appoint Members to those Committees and Outside Bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

2. Ordinary Meetings of the Council

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- (a) Elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) To deal with any items required by statute, to be done before any other item.
- (c) Consider whether any items should be dealt with in private because of the likely disclosure of exempt or confidential information;
- (d) Receive any declarations of interest from Members;
- (e) Approve and sign the minutes of the last meeting;
- (f) Receive any announcements from the Mayor, Leader or Members of the Cabinet;
- (g) Receive any petitions, or questions from members of the public, consider them or refer them elsewhere in accordance with the Council's Petition Scheme;
- (h) Deal with any business from the last Council meeting;
- (i) Receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports:

The following will receive and respond to questions from Members of the Council in order:

- The Leader;
 - Cabinet Members;
 - Chair of the Overview and Scrutiny Committee; and
 - Chair of other Committees;
- (j) Receive reports about and receive questions and answers on the business of Joint Arrangements and external organisations;
 - (k) Consider motions in the order in which notice has been received;

- (l) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committees or Officers for debate.

3. **Extraordinary Meetings of the Council**

3.1 **Calling Extraordinary Meetings**

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (a) The Council by resolution;
- (b) The Mayor
- (c) The Monitoring Officer; and
- (d) Any five Members of the Council if they have signed a requisition presented to the Mayor and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition. The purpose of the request to be specified.

3.2 **Business**

Business conducted at an extraordinary meeting shall be restricted to a single item with no consideration of previous meeting minutes, reports from committees or questions.

3.3 **Procedural Decisions Not Contained Within These Council Procedure Rules**

The decisions and/or procedures set out in Appendices (i), (ii), (iii) and (iv) to these procedure rules being decisions taken by or on behalf of the Council will be followed as if they were included within the Council's Procedural Rules.

4. **Special Meetings of the Council**

4.1 **Purpose**

The Council may promote a local or personal Bill in Parliament or may oppose any local or personal Bill.

4.2 **Procedure**

The resolution of the Council to promote or oppose a Bill shall be:

- (a) passed by a majority of the whole number of the Members of the authority at the meeting convened to consider it.
- (b) in the case of the promotion of a Bill, the proposal has to be confirmed (by a like majority) at a further meeting convened to consider it, as soon as may be after the expiration of 14 days after the Bill has been deposited in Parliament. If the resolution is not confirmed, all reasonable steps shall be taken to withdraw the Bill.

4.3 **Timings**

- (a) In the case of the promotion of a Bill (initial and Second Readings) the period of notice is 30 clear days.
- (b) In the case of the opposition of a Bill the period of notice is ten clear days.

5. **Time and Place of Meetings**

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

6. **Notice of and Summons to Meetings**

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. The Proper Officer will publish on Modern Gov a summons five clear working days in advance of the meeting.

7. **Chairing Meetings of the Council**

The persons presiding at the meeting may exercise any power or duty of the Mayor.

8. Quorum and Adjournment

8.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the majority of the Members present and voting at the meeting. If there is no agreement the Proper Officer in consultation with the Mayor and **Leader** will set a time and date. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

8.2 The Council may adjourn any meeting to another day and hour and the adjourned meeting shall be deemed a continuation of the original meeting in respect of which the above rules shall be applied.

NOTE: For details as this relates to the Hearing Panel of the Standards Committee please refer to Part 3, Appendix 4 – Standards Committee – Annex 3 Hearing Panel Procedure 1.7.

9. Public Participation – Petitions, Questions and Speaking at Meetings

9.1 Petitions

Petitions are dealt with in accordance with the Council's Petitions Scheme. This can be found here - <https://ashford.moderngov.co.uk/documents/s26999/Ashford%20Borough%20Council%20Petition%20Scheme.pdf>

9.2 Questions

The Mayor may receive questions from members of the public relevant to an item included upon the agenda for the meeting.

The question must be directed to either:-

- The Leader;
- The relevant Cabinet Member ;
- Chair of an Overview and Scrutiny Committee; or
- Chair of Other Committees.

If the Mayor rules that a question is proper (i.e. that it refers to a matter of general concern relating to the powers and duties of the Council and relates to an item upon the agenda for the meeting and does not relate to affairs of an individual named or not, the Mayor will request the person to whom the question is directed to respond).

NB: The subject matter of questions and responses given shall not be matters for debate unless the question and response relate to an item for decision at the meeting.

9.3 **Speaking at Meetings**

The Chair may permit members of the public (including representatives of Parish and Community Councils to speak at meetings on items included upon the Agenda for that meeting.

The rules and procedure for speaking at meetings of the Planning Committee, are contained within the Scheme of Public Participation as set out in Appendix 3 to the Access to Information Procedural Rules.

10. **Questions by Members**

- (a) A Member may ask the Leader, Member(s) of the Cabinet or the Chair of any Committee, or Sub-Committee any question on:
- (i) Any matter then under consideration by the Council (without written notice);
 - (ii) The Council's powers or duties or any matter which affects the Borough, if notice of the question in writing has been given to the Proper Officer by 10.00 am one clear day prior to the date of the Council Meeting (excluding the Annual Meeting at which such questions are not permitted in any event).

If the matter relates to a Council Committee function, the Proper Officer will convey the question to the Chairman of that Committee.

If the matter relates to an Overview and Scrutiny Committee function the Proper Officer will convey the question to the Chairman of the Overview and Scrutiny Committee; or

- (iii) The Proper Officer will convey the questions to the most relevant Council Member depending on which function the matter relates to as follows:

Function	Member
Executive	Leader or Cabinet Member
Council Committee	Chair of relevant Committee
Overview and Scrutiny	Chair of Committee

- (b) For urgent business the Mayor will decide if the matter is of sufficient urgency to be raised.

- (c) Questions will not contain imputations of motives or reflections of a personal character on any member of the Council's staff.
- (d) Every question will be put and answered without discussion.
- (e) An answer may take the form of:
 - (i) A direct oral answer; or
 - (ii) A referral to a publication of the Council, a reference to that publication; or a written answer to the Member who asked the question and those Members who wish to receive a copy.
- (f) The Member who raised the original question may ask one supplementary question on the subject of the original question.
- (g) One other Member may ask a supplementary question subject to the same rules.
- (h) The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. The Member to whom the question is addressed may decline to give a full, or any reply, if in the opinion of that Member to do so would involve an unreasonable amount of Officer time and cost.

11. **Motions on Notice**

11.1 **Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion must be delivered to the Proper Officer four clear working days in advance of the meeting.

11.2 **Motion Set Out in Agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member(s) giving notice state(s), in writing, that s/he/they propose to move it at a later meeting or withdraw it.

11.3 **Scope**

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

12. **Motions without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the Summons for the Meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure rule;
- (n) to exclude the public and Press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4;
- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) to extend the time limit for speeches;
- (r) that the meeting become a Committee of the Council;
- (s) that the meeting of the Council be resumed;
- (t) to determine the time and date of an adjourned meeting;
- (u) to put the motion in parts to the vote.

13. Rules of Debate

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

13.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to the Proper Officer before it is discussed.

13.3 Secunder's Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

13.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

13.5 When a Member May Speak Again

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if a previous amendment is not carried or the motion has been amended since they last spoke (see 13.6 (d) and (e) below);
- (c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried) (see 13.10 below);
- (d) in exercise of a right of reply (see 13.9 below);
- (e) on a point of order (see 13.13 below); and
- (f) by way of personal explanation (see 13.14 below).

13.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. A Member may, however, give notice of a further amendment (see, however, 13.7(c) below).
- (c) The Chair may permit two or more amendments to be discussed together if this is likely to help the proper conduct of the business BUT each amendment must be voted on separately.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7 **Alteration of Motion**

- (a) A Member may alter a motion of which they have given notice it with the consent of the meeting and the other signatories. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

13.8 **Withdrawal of Motion**

A Member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

13.9 Right of Reply – Proposer of Motion Only

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

13.10 Right of Reply – Upon Amendment to Motion

At the end of a debate on an amendment to a motion the order in which Members may speak is as follows:

- (a) the mover of the amendment may respond to comments made during the debate but has no right of reply
- (b) the Chair of the relevant Committee or Leader or appropriate Cabinet Member, if that Member has not already spoken in the debate otherwise than in accordance with Rule 13(12) and 13(13);
- (c) the mover of the original motion who shall not otherwise speak on the amendment.

13.11 Motions Which May be Moved During Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting become a Committee of the Council;
- (h) that the meeting of the Council be resumed;
- (i) to exclude the public and Press in accordance with the Access to Information Rules; and
- (j) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

13.12 Closure Motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion "to proceed to the next business" is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that "the question be now put" is seconded and the Mayor thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting the motion to the vote.
- (d) If a motion "to adjourn the debate" or "to adjourn the meeting" is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.13 Point of Order

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

13.14 Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member (whether or not made at the meeting) which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

13.15 **Motions on Expenditure**

Any motion, other than a motion to approve the recommendation of the Cabinet, which if carried would materially increase the expenditure upon any service under the management of the Cabinet, or materially reduce the revenue of the Executive, or would involve capital expenditure, shall, when proposed and seconded, stand adjourned without discussion to the next meeting of the Cabinet, which shall consider it at its next meeting.

NB: This Procedure Rule does not apply to the meeting covered to consider the Council Tax for the next year.

13.16 **Motions Affecting Persons Employed by the Council**

(a) If any question arises on the Appointment, Promotion, Dismissal, Salary, Superannuation, Conditions of Service or conduct of any Council employee, the question must be referred forthwith to the Head of Paid Service. Procedure Rules relating to staff refer. (Part 4 Rules of Procedure – General Procedure Rules – Procedural Decisions not contained within the General Procedure Rules).

NB: The above does not apply so as to prevent consideration of a report from the Head of Paid Service, Director or Service Manager concerning the Appointment, Promotion, Dismissal, Salary, Superannuation, Conditions of Service or Conduct of any Council employee.

(b) Procedures for the dismissal of the Head of the Authority's Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer are as set out in the Local Authorities (Standing Orders) (England) Regulations 2001, (as amended). (See Part 4 Rules of Procedure – General Procedure Rules – Procedural Decisions not contained within the General Procedure Rules.)

14. **Previous Decisions and Motions**

14.1 **Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least 17 Members.

14.2 **Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 17 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

NB: These Procedure Rules shall not apply to motions moved upon a recommendation of the **Cabinet** or Overview and Scrutiny Committee or of a Committee of the Council.

15. **Voting**

15.1 **Majority**

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

15.2 **Mayor's Casting Vote**

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

NB: See, however, the note to General Procedure Rule 1.1 (b).

15.3 **Method of Voting**

Voting at Council Meetings shall normally be undertaken by electronic voting, a show of hands or roll call.

15.4 **Recorded Vote**

If a Councillor so requests before the Chair begins to take the vote, and the request is supported by six other Councillors i.e. a total of seven (who show their support by standing) s/he may request a recorded vote.

15.4A **Recorded Vote of Budget Decisions**

Immediately after any vote is taken at a budget decision meeting there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

NB: "budget decision" means a meeting at which it –

- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 (5); or
- (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.

References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

15.5 Right to Require Individual Vote to be Recorded

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

NB: This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.

15.6 Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

16. Minutes

16.1 Signing the Minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that can be discussed is their accuracy.

16.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following ordinary meeting will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

16.3 Form of Minutes

Minutes will contain all motions and amendments in the exact form and in the order in which the Mayor put them.

17. Exclusion of Public

Members of the public and Press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Procedure Rule 19 (Disturbance by Public).

18. **Members' Conduct**

18.1 **Standing to speak**

When a Member speaks at Full Council they must stand and address the meeting through the Mayor (unless they have physical difficulty doing so). If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a Point of Order or a point of Personal Explanation (see 13.13 and 13.14 respectively above).

18.2 **Mayor Standing**

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

18.3 **Member Not to be Heard Further**

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

18.4 **Member to Leave the Meeting**

If a Member continues to behave improperly after a motion that s/he 'Not be Heard Further' (see 18.3 above) is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

18.5 **General Disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

19. **Disturbance by the Public**

19.1 **Removal of the Public**

If a member of the Public interrupts proceedings, the Mayor will warn the person concerned. If that person continues to interrupt, the Mayor will order their removal from the meeting room.

19.2 **Clearance of Part of Meeting Room**

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

20. **Declarations of Interest**

- 20.1 A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:
- (a) disclose the interest; and
 - (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 20.5 below); and unless they have been granted a dispensation;
 - (c) not participate in any discussion of, or vote taken on, the matter at the meeting; and
 - (d) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- 20.2 A Member with an Other Significant Interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.
- 20.3 Where a Member has declared a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted as referred to in paragraph 1. of this Standing Order), chooses to participate in the discussion and vote, the Chair will refuse to count the 'vote' of the Member concerned. The Chair may apply the rules in Council Procedure Rules relating to 'disorderly conduct'.
- 20.4 The Chair may request that a Member declare a Disclosable Pecuniary Interest or an Other Significant Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Code of Conduct and/or this Standing Order are being breached.
- 20.5 Where a Disclosable Pecuniary Interest or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.
- 20.6 This Standing Order applies to a Cabinet Member acting alone under portfolio powers and to a ward Member who discharges functions at ward level.

21. **Suspension and Amendment of Council Procedure Rules**

21.1 **Suspension**

All of these Council Rules of Procedure except Rule 15.4A, 15.5 and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

21.2 **Amendment**

Any motion to add to, vary or revoke these General Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless already on the agenda.

22. **Application to Committees and Sub-Committees**

All the General Procedure Rules apply to meetings of Full Council. None of the rules, save for Rule 15.4A and 21, apply to meetings of the Cabinet **Executive**. Only Rules 6, 7, 8, 9, 12 (a to d) and (f to p), 13.1 to 13.3, 13.6 to 13.8, 13.11, 13.14 and 13.16, 14, 15.1, 15.2, 15.4A, 15.5 and 15.6, 16.1, 16.2, 17, 18.3 to 18.5, 19 and 20 apply to meetings of Committees and Sub-Committees, save that General Procedure Rules 13.1, 13.2, 13.6 (b) and (d), 13.11 and 14 do not apply to the Planning Committee as the procedure followed by the Committee in relation to voting has been amended (Minute No. 120/08/11 refers), and in this case references to the Mayor should be interpreted as 'Chair'.

General Procedure Rules

Appendix 1 Procedure Rule 3.3 Refers

Procedural Decisions not Contained within the General Procedure Rules

Procedure Rules Relating to Staff

A. Appointment and Dismissal of Staff

NB: Please also see Terms of Reference for the Appointments Committee (Part 3, Appendix 4) which deals with arrangements for the appointment of a Chief Executive (Head of Paid Service), Monitoring Officer, Chief Finance Officer (Section 151), Directors, Assistant Directors and Heads of Service.

- 1) The appointment and dismissal of, and taking of disciplinary action against, a Member of staff of the Authority must be discharged, on behalf of the Authority, by the Head of Paid Service or by an Officer nominated by them.
- 2) Paragraph (1) above shall not apply to the appointment or dismissal of, or disciplinary action against:-
 - (a) the Officer designated as the Head of the Authority's Paid Service, or the Monitoring Officer or Chief Finance Officer (Section 151).
 - (b) A Non-Statutory Chief Officer, namely
 - (i) a person for whom the Head of the Authority's Paid Service is directly responsible;
 - (ii) a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Head of the Authority's Paid Service; and
 - (iii) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the Local Authority themselves or any Committee or Sub-Committee of the Authority.
 - (c) A Deputy Chief Officer, namely a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the Statutory or Non-statutory Chief Officers.
 - (d) Any Officer who is required to report to a Deputy Chief Officer, who also has responsibility for more than one Council function.
 - (e) Assistants for political groups.

- 3) (1) Where a Committee, Sub-Committee or Officer is discharging, on behalf of the Authority, the function of the appointment or dismissal of an Officer designated as the Head of the Authority's Paid Service, Monitoring Officer and Chief Financial Officer (Section) the Authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be or must approve dismissal before Notice of Dismissal is given to them.
- (2) Where a Committee or a Sub-Committee of the Authority is discharging, on behalf of the Authority, the function of the appointment or dismissal of any Officer referred to in Paragraph 2 (b) to (d) (above) at least one Member of the Cabinet must be a Member of that Committee or Sub-Committee.
- 4) (1) "Appointor" means in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer, as the case may be.
- (2) An offer of an appointment as an Officer referred to in subparagraphs (b) (i) (ii) (iii) or (c) of paragraph 2 must not be made by the appointor until
 - (a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the Proper Officer has notified every Member of the Cabinet of the Authority of:
 - (i) the name of the person to whom the appointor wishes to make the appointment
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
 - (c) either

- (i) the Leader has, within the period specified in the Notice under sub-paragraph (b) (iii), notified the appointor that neither he nor any other Member of the Cabinet has any objection to the making of the offer.
 - (ii) the Proper Officer has notified the appointor that no objection was received by them within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 5) (1) “Dismissor” means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer as the case may be.
- (2) Notice of the dismissal of an Officer referred to in sub-paragraph (b) (i) (ii) (iii) or (c) of paragraph 2 must not be given by the dismissor until:
 - (a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) The Proper Officer has notified every Member of the Cabinet of the Authority of:
 - (i) the name of the person who the dismissor wishes to dismiss.
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
 - (c) Either

- (i) the Leader has, within the period specified in the Notice under sub-paragraph (b) (iii), notified the dismissor that neither he nor any other Member of the Cabinet had any objection to the dismissal.
 - (ii) the Proper Officer has notified the dismissor that no objection was received by him within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 6) Nothing in paragraph 1 shall prevent a person from service as a Member of any Committee or Sub-Committee established by the Authority to consider an appeal by:
- (a) Another person against any decision relating to the appointment of that other person as a member of staff of the Authority; or
 - (b) A member of staff of the Authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

NB 1 The power to approve the appointment or dismissal of the Head of the Authority's Paid Service, Monitoring Officer, Chief Finance Officer (Section 115) shall be exercised by the Full Council. Neither courses of action may be delegated to a Committee or Sub-Committee.

NB 2 "Disciplinary Action" in relation to a member of staff of a Local Authority means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.

"Member of Staff" means a person appointed to or holding a paid office or employment.

(The Local Authorities (Standing Orders) (England) Regulations 2001)

B. Disciplinary Action Against The Head Of The Authority's Paid Service, The Monitoring Officer, and/or The Chief Finance (151) Officer ("Relevant Officers")

A relevant Officer may not be dismissed by the Council unless

- (a) the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) is complied with and
- (b) the dismissal is voted for by at least two-thirds of the membership of the Council.

C. Budget and Policy Framework

D. Sealing and Authentication of Documents

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council and Monitoring Officer. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to these documents which, in the opinion of the Solicitor to the Council and Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Solicitor to the Council and Monitoring Officer or some other person authorised by them.

Appendix 2 Procedure Rule 1 – 2 (iii) Refers

Political Balance

Political Balance rules can be found here –

<https://ashford.moderngov.co.uk/documents/s27000/Political%20Balance%20Rules.pdf>

Appendix 3 Procedure Rules 1.2 (d) and 3.3 Refer

Procedural Decisions Relating to Non-Executive Committees etc.

A. Appointment of Committees etc.

(1) The Selection and Constitutional Review Committee held immediately prior to the Annual Meeting of the Council shall recommend to the Council:-

- (a) the number of Overview and Scrutiny Committees and Sub-Committees to be constituted for the ensuing year.

NB: At present the following Committees and Sub-Committees are constituted:-

Committees	Sub-Committees
Overview and Scrutiny	None

- (b) the constitution of the following Committees and Groups for the ensuing year.

- **Planning**
- **Investigation and Disciplinary Committee**
- **Selection and Constitutional Review**
- **Licensing**
- **Regulatory**
- **Appointments**

NB: The requirements of the Local Government (Committees and Political Groups) Regulations 1990 apply to the membership of the above Committees.

- **Audit**
- **Appeals**
- **Licensing Sub-Committee**
- **Regulatory Sub-Committee**
- **Standards (including a Hearing Panel)**

NB: The Council has agreed that the requirements of the Local Government (Committees and Political Groups) Regulations 1990 should not apply to the membership of the Appeals and Licensing Sub-Committees and Standards Committees.

(c) the constitution of such other Committees etc. as are necessary to carry out the work of the Council.

NB (i) At any time other Committees or Sub-Committees necessary to carry out the work of the Council may be constituted.

(ii) The Leader, the Cabinet and the Overview and Scrutiny Committee and any Council Committee may also appoint and delegate its powers and duties or those of one of its Sub-Committees to such additional Sub-Committees as are considered necessary.

Sections 101 and 102 of the Local Government Act 1972

(d) the appointment of Chairmen and Vice-Chairmen of the Committees and Sub-Committees etc. the constitution of which are recommended pursuant to (1)(a) and (b) above.

(2) Each Appeals Committee and Licensing Sub-Committee shall normally comprise a maximum of three Members to be chosen by the Proper Officer from the appointed membership of the Committee. Wherever reasonably practicable, the Proper Officer shall, where appropriate, reflect the political balance of the Council in the composition of those Members. A detailed guidance note for the conduct of hearings at Licensing Sub-Committee meetings is included under Part 3, Appendix 4.

(3) The terms of reference of Committees shall subject to (1) above be determined at the Annual Meeting of the Council in relation to Council functions and by the Leader in relation to executive functions (subject to the power of any Committee or Sub-Committee to delegate any power in accordance with Section 101 of the Act).

(4) Delegations to Committees shall be determined from time to time by the Council in relation to Council functions. The Council will also receive reports from the Leader in relation to the delegation of executive functions.

(5) The Leader or the Cabinet shall determine which Cabinet Members are to be appointed to membership of the Joint Transportation Board;

(a) **Joint Arrangements**

Joint Transportation Board

NB: The Joint Transportation Board cannot be politically balanced due to the manner in which the Kent County Council makes its appointments. The Council has agreed that its representatives will be appointed in accordance with the Local Government (Committees and Political Groups) Regulations 1990. Appointments have to be made by the Cabinet and in the years the Borough Council is to appoint the Chair or Vice-Chair of the Board, the identity of such Member.

B. Appointment of Members to Committees etc.

- (1) Group Leaders upon the Council shall notify the Proper Officer of the Members of their Groups who are to be appointed to membership of the Committees etc. to be constituted pursuant to A above, in accordance with the allocation of seats to groups as notified to the Group Leaders by the Proper Officer across all Committees etc. of the authority.
Local Government (Committees and Political Groups) Regulations 1990
- (2) In allocating Members to seats Group Leaders should attempt to ensure that every Member of their Group is allocated at least one seat on a Committee, subject to the need to ensure compliance with the provisions of the Local Government (Committees and Political Groups) Regulations 1990.
- (3) An ex officio Member is appointed to the Planning Committee by virtue of the office held and not by his/her selection as an individual. The ex officio Member shall have the right to attend such meetings, to speak and to propose or second any motion but shall not have the right to vote on any matter. The ex officio Member is not permitted to act as a substitute for any other Member of his/her political group who is absent from a meeting at which s/he attends as a substitute.
- (4) An appointment of a Member to any Committee shall expire at the next Annual Meeting of the Council or such lesser period as the Council or Group Leader may from time to time determine.
Section 102(2) of the Local Government Act 1972 and the Local Government (Committees and Political Groups) Regulations 1990

C. Appointment of Substitute Members of Committees etc.

The Council's "Scheme of Substitutes" as set out in Appendix (4) to these Procedure Rules will apply to the Council's Committees and Sub-Committees established to consider 'Council Functions' and also to meetings of an Overview and Scrutiny Committee and their Sub-Committees, Task Groups and Forums etc. It does not apply to the Cabinet or Area Forums/Committees.

D. Calling Extraordinary Meetings

The Chair of a Committee or Sub-Committee may call an Extraordinary Meeting of the Committee or Sub-Committee. An Extraordinary Meeting may also be called on the requisition of at least three Members of a Committee or at least two Members of a Sub-Committee, delivered in writing to the Proper Officer.

E. Person Presiding at Committees, etc.

- (1) The Council may appoint, from among the voting Members, a person to preside at meetings of a Committee, Sub-Committee, Group or Forum and a person to preside in the absence of the first person.
- (2) If any appointment possible under the previous paragraph is not made, the Committee, Sub-Committee, Group or Forum at its first meeting after the Annual Meeting of the Council shall, from among their voting Members, appoint a person to preside at their meetings, and may, in the same way, appoint a person to preside in the absence of the first person.
- (3) If the persons appointed under the previous paragraphs of this Procedure Rule are absent from any meeting of the Committee, Sub-Committee, Group or Forum concerned then the Committee or Sub-Committee Group or Forum shall appoint, from among the voting Members present (including substitute Members), a person to reside at that meeting.
- (4) If it is necessary for the Committee, Sub-Committee, Group or Forum to appoint a person to preside, the Proper Officer shall call on a Member of the Committee, Sub-Committee, Group or Forum to move that a voting Member of the Committee, Sub-Committee, Group or Forum shall take the chair.
- (5) If discussion arises, the Proper Officer shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting.
- (6) The motion, and any amendments, shall be put to the meeting in accordance with Procedure Rule 15 (6) (voting on appointments).

- (7) If there are equal numbers of votes for and against a motion, the Chair will have a second or casting vote, regardless of whether he has used his first vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

F. Meetings of Committees etc.

- (1) Right of Member Attendance etc.
- (a) A Member may attend any meeting but, unless appointed to the Committee, Sub-Committee, Group or Forum or as a substitute Member shall not vote and, save as provided in (b) below, may only speak with the permission of the Chair.
- (b) The Leader and/or the Cabinet Member who has within their portfolio an item the subject of consideration at an Overview and Scrutiny Committee may speak as of right on such matters subject to the Chair of the Committee agreeing the order of speakers.
- (c) The Chair of any Committee, Sub-Committee, Group or Forum may attend to present the Minutes or reports from their respective Committee, Sub-Committee, Group or Forum and speak with the consent of the Chair.
- NB:** It is considered best practice in relation to (a), (b) and (c) above for the Member to give prior notice to the Chair of their intention to attend a meeting and to speak as appropriate.

(2) Quorum

The Quorum for meetings of the Cabinet, the Overview and Scrutiny Committee and other Committees, Sub-Committees, Groups and Forums are as specified in the relevant Committee Procedure Rules and as contained in the individual Terms of Reference of the other Committees, Sub-Committees, Groups and Forums.

(3) Adjournments

- (a) The consideration of any business not transacted at any meeting of the Cabinet, Committee, Sub-Committee, Group or Forum which becomes inquorate shall be considered on a date and time then fixed by the Chair or if s/he does not fix a time, at the next ordinary meeting of the Cabinet, Committee, Sub-Committee, Group or Forum concerned.

Paragraph 4(5) and (6) of Schedule 12 subject also to Paragraph 45 of the Local Government Act 1972

- (b) Any meeting of the Cabinet, Committee, Sub-Committee, Group or Forum may be adjourned for misconduct and disturbance pursuant to General Procedure Rules 21.5 and 22.
- (4) Inclusion of Items on Agenda by Members and Supply of Agenda
- (a) Any Member who gives notice to the Proper Officer (in writing) not later than noon on the Monday preceding any meeting programmed to be held in the following week (or noon on the last working day of the week before the meeting in question in the event of the offices being closed on that day), may request that an item relevant to that meeting and as contained within an Information Digest be considered by the Cabinet or other Committee or Sub-Committee to which the item is appropriate.
 - (b) Upon receipt of such a request the Proper Officer shall notify the Chair and Vice-Chair of the Cabinet or the Chair and Vice-Chair of the Committee or Sub-Committee concerned (if possible), and despatch a supplementary agenda concerning the item and otherwise comply with the provisions of the Access to Information Rules in Part 4 of this Constitution.
 - (c) Apart from as provided for in (e) below, any item required by a Member to be considered by the Cabinet, or a Committee or Sub-Committee shall be notified to the Proper Officer who will decide whether the item shall be referred to the Cabinet or other appropriate Committee or Sub-Committee.
 - (d) The Proper Officer will include an item on the next Agenda of the Cabinet, or the Committee or Sub-Committee unless the Member concerned otherwise agrees after consultation with the Proper Officer. The Member will provide the Proper Officer with a written report upon such item suitable for circulation with the Agenda.
 - (e) The Council publishes all the agendas, reports and Minutes of the meetings of the Cabinet, and all other Committees, Sub-Committees. Groups etc. on-line via ModernGov and Members will receive an e-mail alert of when an Agenda or set of Minutes has been published. The following protocol for the operation of the scheme is in place:-
 - (i) all Members and Officers will be notified by an e-mail alert of when an Agenda or Minutes have been published on the website.

- (ii) the Members be only provided with a hard copy of the Agenda for the Planning Committee if they have been appointed to that Committee.
- (iii) Members should note the need to ensure that they do not inadvertently divulge or make available to non-Council Members exempt or confidential information. All exempt or confidential reports will contain an 'exempt' or 'confidential' watermark.
- (iv) IT and/or Member Services will provide Members with a password to access the on-line system.

Appendix 4

Procedure Rule 1.2 (c) Refers

Scheme of Substitutes for Members

Guidance Note - Scheme of Substitutes for Members

This Scheme does not Apply to the Cabinet or to any of its Committees or Area Forums

1. Introduction

Following the introduction of the Political Balance Regulations the Council agreed, to adopt a Scheme of Substitutes for Members, so as to ensure that all Groups had the opportunity to be represented at any of the Council's Committees etc. by the correct proportion of Members.

2. The Scheme

The Scheme provides that when a Member of any Committee, Sub-Committee, Task Group or Forum (but not Area Forum) is unable to attend any meeting of that Committee, Sub-Committee, Task Group or Forum, a substitute Member from the same political group may attend in place of the Member in which event the substitute shall give notice of his attendance as such at the commencement of the meeting.

3. Guiding Principles

The Council has agreed that the following guiding principles shall apply to the Scheme of Substitutes:-

- (a) The attendance at a Planning training session is a pre-requisite to being able to act as a substitute at meetings of the Planning Committee (Minute No. 247/9/06 refers).
- (b) A substitute Member may only attend if the "permanently appointed" Member cannot.
- (c) Attendance by a Member as a substitute at a meeting of any Committee, Sub-Committee, Working Group, Task Group or Forum will be notified by the substitute Member at the commencement of the meeting.
- (d) Once a substitute Member has given notice of his attendance at a meeting as such, if the "permanently appointed" Member subsequently attends at that meeting, the "permanently appointed" Member will not be able to take part in proceedings without the express permission of the Chairman of the meeting and under no circumstances will be able to vote, i.e. they may not displace the substitute, even if the substitute has left the meeting.

- (e) In the event of the Chair of a Committee, Sub-Committee, Working Group, Task Group or Forum being absent and appointing a substitute, the substitute may only act as an ordinary Member and will not “assume” any rights of the “permanently appointed” Member to act as Chair and in such event, the normal rules as to the Vice-Chair taking the chair will apply. In the absence of both the Chair and the Vice-Chair from a meeting, the meeting shall appoint a Chairman for the meeting who may be drawn from any Member (including any substitute Member) present and with voting rights.
- (f) In the event of the resignation or death of a “permanently appointed” Member, a substitute may be allocated to each Committee, Sub-Committee, Working Group, Task Group or Forum normally attended by that Member but until a by-election has taken place, no permanent appointment to fill the vacancy will be made.
- (g) Political groups will each make their own arrangements for implementing the process via their own Officers. Although the Proper Officer or his staff may remind Members (who request that their apologies for absence be submitted for any meeting) that they can appoint a substitute from the same political group, those staff will not find or invite a substitute on the Member’s behalf.

- NB:**
- 1. Each Member whether acting as a “permanently appointed” or substitute Member will have all of the responsibilities of membership of the Committee, Sub-Committee, Task Group or Forum and will be equally answerable in law for any decisions made.**
 - 2. The co-opted representative(s) of the Ashford Area Committee of the Kent Association of Local Councils on the Ashford Joint Transportation Board; may appoint substitute(s) to attend any meeting they are unable to attend**

Access to Information Procedure Rules

Access to Information Procedure Rules^a

1. Scope

Rules 2 -11 apply to:

- all meetings of the Council and its Committees and Sub-Committees;
- all meetings of the **Cabinet** and its Committees and Sub-Committees;
- all decision-making by the **Leader** or individual **Cabinet Members**;
- all meetings of Area Committees; and
- all meetings under **Joint Arrangements**.

Rules 13 - 19 apply to **key decisions** made by:

- the **Leader**, the **Cabinet**, **Cabinet Members** and Committees of the Cabinet (the **Executive**);
- an Officer;
- an Area Committee; and
- under **executive Joint Arrangements**.

Rule 22 applies to:

- all meetings of the **Cabinet** and its Committees;
- all decision-making meetings of Area Committees; and
- all decision-making meetings under **executive Joint Arrangements**.

These rules also cover Members' rights of access to information.

These rules do not cover public rights of access to information under the Freedom of Information Act 2000 and the Data Protection Act 2018.

These rules apply to decisions within the **budget and policy framework**. Further detail on decisions outside the budget and policy framework and the steps to be taken can be found in the Budget and Policy Framework Procedure Rules at **Part 4**.

All decisions must be taken in accordance with Article 13 at **Part 2**.

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.

4. **Notice of Meeting**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the offices of the Council and publishing the Agenda on the Council's website.

5. **Public Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available by posting details of the meeting on its website and at its offices at least five clear days before the meeting. If an item is added to the agenda later, the Proper Officer shall make the revised agenda (where reports prepared after the summons have been sent out), available to the public as soon as the report is completed and sent to Councillors.

6. **Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) any other documents supplied to Councillors in connection with an item included upon the agenda to any person on payment of a charge for postage and any other costs, if the Proper Officer thinks fit.

7. **Public Access to Minutes etc. after the Meeting**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose 'Exempt' or 'Confidential Information' as defined below at Rule 10;

- (b) 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;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

The Proper Officer will produce the minutes of meetings or record of decisions taken or a summary of proceedings as referred to in (a) and (b) above within three working days, but will attempt to produce them within two working days.

8. Public Access to Background Papers

8.1 List of Background Papers

The author of a 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 opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) 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 executive reports, the advice of any political adviser or assistant.

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 Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices. A copy of this document is set out in Appendix 2 to these Procedure Rules.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential Information – Requirement to Exclude Press and Public

The press and public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. (See 10.3 below)

10.2 Exempt Information – Discretion to Exclude Press and Public

The press and 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, provided:

- the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below), the description of the exempt information giving rise to the exclusion of the public; and
- that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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 7 categories (subject to any qualifications):

Paragraph 1: Information relating to any individual.

Paragraph 2: Information which is likely to reveal the identity of an individual.

Paragraph 3: Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Note:- Information falling within Paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered 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

Paragraph 4: Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.

Paragraph 5: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Paragraph 6: Information which reveals that the authority proposes –

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an Order or direction under any enactment.

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

Note 1: 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.

Note 2: Information which:-

- (a) Falls within any of paragraphs 1 – 7 above; and
- (b) Is not prevented from being exempt by virtue of Note 1 above or the note set out under Paragraph 3 above.

Is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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 Executive**

The **Executive** has decided that all of its meetings and its Committees are to be held in public whether or not a **key decision** is to be made and the preceding Rules 1 - 11 therefore apply.

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) a notice (called here a Schedule of Key Decisions) has been published in connection with the matter in question;
- (b) at least *28 consecutive* days have elapsed since the publication of the Schedule of Key Decisions;
- (c) where the decision is to be taken by the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings); and
- (d) where the decision is to be taken at a meeting of the **Cabinet** or its Committees, or at a meeting of an Area Committee or under **executive Joint Arrangements** and the matter will be considered in private, the provisions of Rule 22 have been followed.

14. **The Schedule of Key Decisions**

14.1 **Period of Schedule of Key Decisions**

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is a requirement to publish details of Key Decisions 28 consecutive days before the meeting they are to be considered at. The Council maintains a live, up to date rolling list of decision items on the Council's website, and that list will be presented to the Cabinet each month, in its current state, for Members' information.

14.2 **Content of Schedule of Key Decisions**

The Schedule of Key Decisions will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

Exempt and confidential information (as defined in Rule 10) and the advice of political advisers or assistants will not be included but the Schedule of Key Decisions will contain particulars of the matter.

15. **General Exception**

If a matter which is likely to be a key decision has not been included in the Schedule of Key Decisions, then subject to the Budget and Policy Framework the decision may still be taken if;

- (a) 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 Schedule of Key Decisions and until the start of the first month to which the next Schedule of Key Decisions relates;
- (b) the Proper Officer has informed the Chair of the relevant 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;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public unless it is likely that 'Exempt' or 'Confidential Information' will be disclosed, in accordance with the requirements of Rule 22.

NB: For assistance see flowchart at Appendix 1

16. **Report to Council**

16.1 **When an Overview and Scrutiny Committee Can Require a Report**

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

- (a) included in the Schedule of Key Decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with an Overview and Scrutiny Committee Chair or the Mayor or Deputy Mayor of the Council under Rule 16;

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 Chair or any 5 Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

16.2 **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 reasons for the decision, the individual or body by which the decision was made, and if the **Cabinet** is of the opinion that it was not a **key decision** the reasons for that opinion.

16.3 **Reports on Special Urgency Decisions**

The **Leader** will submit reports to the Council on the **executive decisions** taken in the circumstances set out in Rule 16 (special urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. Such report will be taken no less than annually.

17. **Record of Decisions**

After any meeting of the **Executive**, an Area Committee or under **executive Joint Arrangements**, 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. The Proper Officer will produce this record within three working days, but will attempt to produce them within two working days.

18. **Cabinet Meetings Relating to Matters Which are not Key Decisions**

Meetings of the **Cabinet** relating to matters which are not **key decisions** will be held in public unless it is likely that 'Exempt' or 'Confidential Information' will be disclosed. The exclusion of the public will, however, only be for such items.

19. **Decisions by Individual Members of the Cabinet or Officers**

19.1 **Reports Intended to be taken into Account**

Where an individual Member of the Cabinet including the **Leader** is to take a decision, or an Officer is taking a **key decision**, the requirements of Rule 13 – 19 shall apply.

The provisions of Rules 1 - 11 will also apply to the making of decisions by individual **Cabinet Members** including the **Leader**.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of **key decisions** by Officers. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

19.2 **Record of Individual Decision**

As soon as reasonably practicable after an **executive decision** has been taken by the **Leader** or an individual Member of the **Cabinet** or a **key decision** has been taken by an Officer, that person 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 on Modern.Gov. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the **Cabinet** or Officers. This does not require the disclosure of 'Exempt' or 'Confidential Information' or advice from a political adviser or assistant.

20. **Overview and Scrutiny Committee - Access to Documents**

20.1 Subject to Rule 21.2 below, an Overview and Scrutiny Committee will be entitled to receive documents or any part of a document that contains exempt or confidential information where that information is relevant to an action or decision they are scrutinising or intend to scrutinise.

20.2 **Limits on Rights**

An Overview and Scrutiny Committee will not be entitled to:-

- (a) any document that is in draft form; or
- (b) the advice of a political adviser or assistant.

21. **Additional Rights of Access for Members**

21.1 Members of a Committee are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

21.2 In addition, Members will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the **Cabinet** (even though they are not a member of those bodies) where they can demonstrate a "need to know" in order to perform their duties as Members.

21.3 Subject to Rule 22.4 below, the circumstances where a "need to know" *may* be treated as arising will include:

- (a) Where the matter relates to a sub-committee of a committee of which they are a member;

- (b) Where the matter relates to a committee of the **Cabinet** where they are a **Cabinet Member**;
- (c) Where the matter is within the remit of the Audit or Overview and Scrutiny Committee of which they are a member;
- (d) Where the **Full Council** is required to approve the decisions or recommendations of committees, sub-committees or the Cabinet;
- (e) Where the matter has been delegated to a Committee or Sub-Committee, but significantly affects the reputation of the whole Council;
- (f) Where the matter relates specifically to a Member's own ward; and
- (g) In relation to exempt material within a report on a decision that has been called in for consideration by Overview and Scrutiny Committee and the Member has signed a call-in notice and that Member has indicated that they wish to address the Overview and Scrutiny Committee as part of the call-in process.

21.4 There will not be a "need to know" if a Member is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.

21.5 A Member wishing to see confidential or exempt Council, Committee, Sub-Committee or **Executive** documents or to attend the confidential part of a meeting should make written application to the Monitoring Officer, setting out the reasons and information in support of their claim to have a "need to know", and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform his/her duties.

21.6 The determination as to whether or not a "need to know" has been demonstrated will be based on officer advice and will include legal advice. Once a determination has been made, this will be communicated to the Member who has made the claim.

22. **Procedures Prior to Private Meeting**

22.1 A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the 2000 Act (regulations requiring prescribed information about prescribed decisions).

22.2 At least 28 consecutive days before a private meeting, the decision-making body must:-

- (a) make available at the offices of the Council a notice of its intention to hold the meeting in private; and

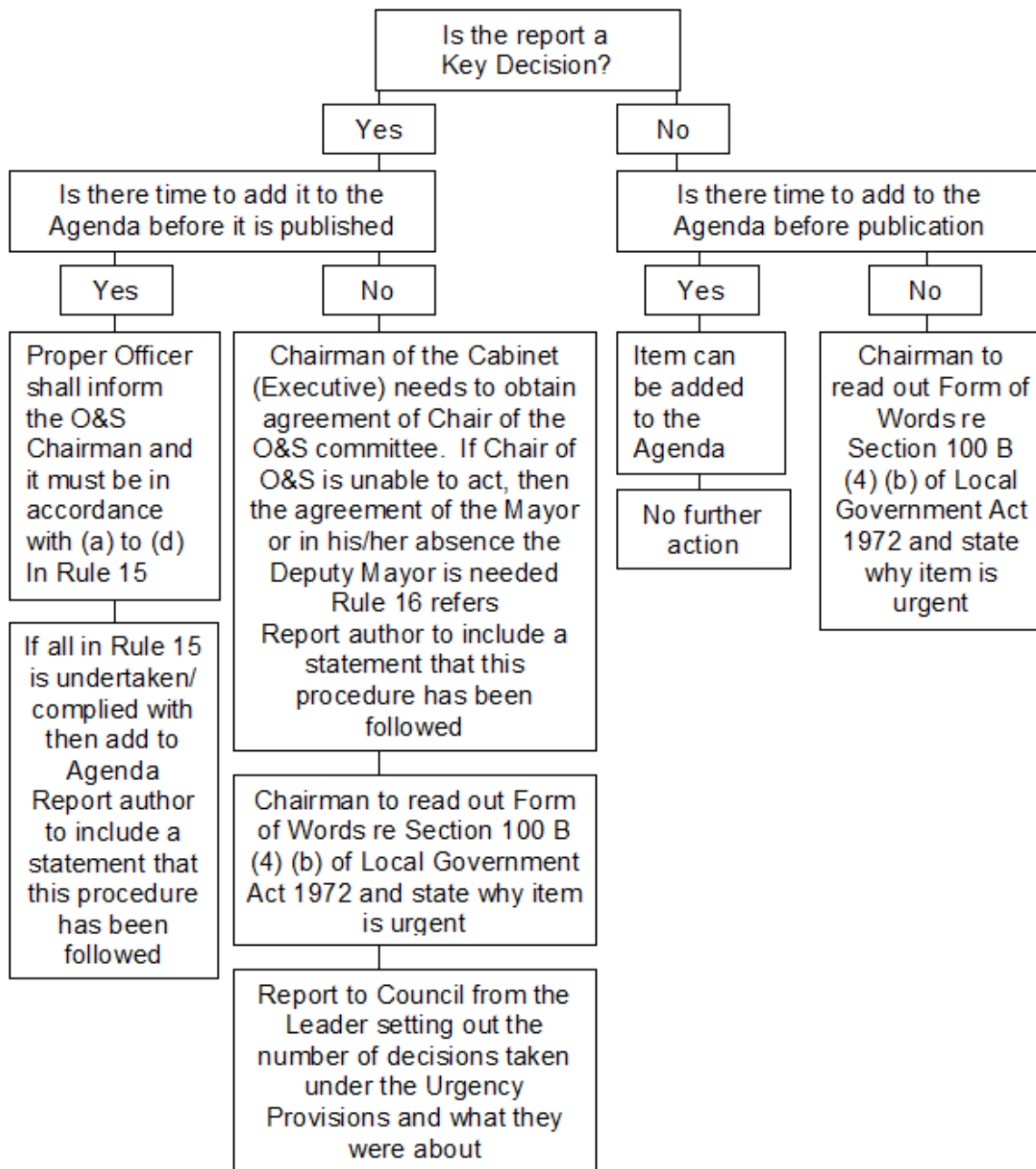
- (b) publish that notice on the Council's website.
- 22.3 A notice under paragraph 23.2 must include a statement of the reasons for the meeting to be held in private.
- 22.4 At least five clear days before a private meeting, the decision-making body must:-
- (a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.
- 22.5 A notice under paragraph 23.4 must include:-
- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the Council about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.
- 22.6 Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from:-
- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Chair of the Council; or
- (c) where there is no Chair of either the Overview and Scrutiny Committee or of the Council, the Vice-Chair of the Council,
- that the meeting is urgent and cannot reasonably be deferred.
- 22.7 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 23.6 to hold a private meeting, it must:-
- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

Appendix 1

Flow Chart - Urgent Reports

Access to Information Procedure Rules 15 & 16

NOTE: For Urgent Decisions Outside the Budget or Policy Framework see paragraph 4 of Budget & Policy Framework Procedure Rules.



Appendix 2

Access to Information Procedure Rule 9 refers

Summary of Rights of the Public to Attend Meetings and to Inspect and Copy Documents under Part V(A) and Part XI of the Local Government Act 1972 (As Amended)

Summary of Rights of the Public to Attend Meetings and to Inspect and Copy Documents under Part V(A) and Part XI of the Local Government Act 1972 (As Amended)

Legal Rights to Information

These rules apply to all meetings of the Council, Cabinet, Regulatory Committees and to any other formal Committees and Sub-Committees established by the Council (together called meetings) and to certain decisions taken by Officers as specified by law and provided for in these rules. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, for example the Public Bodies (Admission to Meetings Act) 1960, the Local Government Act 1972, the Freedom of Information Act 2000 and the Data Protection Act 2018. Previously exempt information may subsequently be made available if the reason for exemption no longer applies.

Access to Meetings

1. Meetings of the Council, the Cabinet, and their Committees and Sub-Committees are open to the public.
2. The Council has provided facilities for the public who wish to attend these meetings but has found it necessary to limit the numbers to 68 in the case of meetings held in the Council Chamber. On those occasions when the accommodation is insufficient for all the public wishing to attend meetings they may, subject to the discretion of the person presiding at the meeting, be allowed to stand to listen to the debate. This is, however, subject to such persons behaving in an orderly manner and to the numbers of people standing being commensurate with public safety.

Access to Agenda and Connected Reports

3. Copies of agenda and open reports for meetings of the Council, the Cabinet, and their Committees and Sub-Committees are open for inspection by the public. These documents are available five days before the meeting, or as soon as the meeting is convened, or the item added to the agenda, if that is less than five clear days. A reasonable number of copies of agenda and open reports will be made available for the public present at a meeting. Agenda and open reports will also be available on request for the media.
4. The papers will also be available for inspection (subject to any reasonable delay on account of retrieval) in the Member Services Section at the Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL between the hours of 9.00am and 4.00pm on working weekdays for a period of four years from the date of the meeting. The papers are also available for inspection on the Council's website. Enquirers should ask to speak to a member of staff in the Member Services Section (01233) 330349.

Inspection of Minutes

5. The Council will make available copies of the following for six years after a meeting:
 - (a) The Minutes of the Meeting or records of decisions taken, together with reasons, for all meetings of the Council, Cabinet and formal Committees, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
 - (b) 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.
 - (c) The Agenda for the Meeting.
 - (d) Reports relating to items when the meeting was open to the public.

Inspection of Background Papers

6. Members of the public may also inspect a list of the background papers for open reports and a copy of each of the documents included in that list at the Civic Centre. This right is available as soon as the agenda is published and continues for four years from the date of the meeting. Background papers disclosing confidential or exempt information are not open for inspection.
7. Background papers are documents which relate to the subject matter of a report, disclose any fact or matter on which the report is based, and have been relied on to a material extent in preparing the report, but excludes any published work. Requests for inspection of relevant documents should be made to the Officer in whose name the report is prepared.

Publication of Additional Information

8. The Council will maintain and make available a register stating the name and address of every Member of the Council and the ward s/he represents and the name and address of every Member of the **Cabinet**, and each Committee or Sub-Committee of the Council.
9. The Council also maintains a list specifying powers delegated to its Officers and stating the title of the Officer by whom each of those powers is exercisable. The list is contained in Part 3 of this Constitution.

Financial Documents

10. A Member of the Council has a right to inspect its accounts or the accounts of any Proper Officer.
11. Additionally, at each audit any person interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to such accounts and make copies.

The Local Government (Inspection of Documents) (Summary of Rights) Order 1986

12. The Secretary of State for the Environment requires reference to the following enactments which confer rights to attend meetings and to inspect, copy and be furnished with documents to be published under Statutory Instrument 1986 No. 854.

Appendix 3

General Procedure Rule 9 Refers

Scheme of Public Participation

Scheme of Public Participation

NB: This Scheme does not apply to a Meeting of the Overview and Scrutiny Committee or its Sub-Committees as they have their own arrangements for consulting with the public as detailed in the Overview and Scrutiny Procedure Rules, nor does it apply to Meetings of the Licensing Sub-Committee or to the Joint Transportation Board in terms of the arrangements for the submission of petitions. Please refer to the JTB terms of reference for detail of the operation of the petition scheme for this Board.

1. Introduction

The public has always had the right to attend meetings of the Council and its Committees and Sub-Committees to listen to the debate. However, to enhance the public's ability to contribute to the democratic process a comprehensive Public Participation Scheme is in place. The Scheme is wide ranging and successful and has in its various forms been in operation from 1995. To allow the Scheme to operate fairly and effectively there are a few simple rules which should be followed. Set out within this note are the details of how the scheme works in practice and how the scheme is applied to Parish Councils and to the public. The procedure note has been split into the following sections:-

- General Rules Applicable to All Schemes (Para 2)
- Types of Public Participation (Para 3)
 1. Petitions (Para 3(a))
 2. Questions (Para 3.2(b))
 3. General Comments (Para 3(c))
- Procedure for speaking at meetings of the Planning Committee in relation to Planning Applications (Para 4)
- Summary of Rights (Para 5)
- Administration of the Scheme (Para 6)

2. **General Rules Applicable to all Schemes**

- (a) All requests to take part at meetings, in accordance with the Council's Public Participation Scheme should be submitted in writing providing that contact details and the question in full or a clear statement of the nature of the proposed comments to be given. The Council's website also has a facility allowing the public to register to speak on line.
- (b) The following **written** notice must be given in respect of the scheme to the Proper Officer:-
 - (i) For Petitions, Questions and Comments at any meeting other than Planning Committee or the Overview & Scrutiny Committee – 10.00 on the last working day before the meeting date.
 - (ii) For the Planning Committee by 15:00 two clear working days before the meeting.

The above deadlines do not apply in respect of urgent items placed before Committees in accordance with Section 100b(4)(b) of the Local Government Act 1972.

- (c) Length of speech – in support of petitions, questions and general comments - this will be a maximum of 3 minutes, except with the Chair's approval.
- (d) The scheme does not allow the speaker to enter into any debate.
- (e) In all cases the Chair will determine the order in which the petitions are presented, questions asked or comments made.

3. **Types of Public Participation (Excluding the Scheme as it applies to the Planning Committee)**

(a) **Petition Scheme for Ashford Borough Council**

The Council's full Petition Scheme can be found here ([Hyperlink](#))

(b) **Questions**

- (i) Must be from residents of the Borough.
- (ii) Must be relevant to the powers and duties of the Council, the **Cabinet** or terms of reference of the relevant Committee or Sub-Committee.
- (iii) Must relate to an item on the Agenda.

(iv) Only one person will be allowed to speak per item on the agenda.

(c) **General Comments.**

(i) Must relate to an item on the Agenda.

(ii) Not normally more than two speakers will be allowed per agenda item.

4. **Procedure for Speaking at Meetings of the Planning Committee**

(a) Views to be confined to planning issues only. (Guidance is available from the Proper Officer which may help you to consider your comments).

(b) Questions may not be asked. No requests for site visits. No speeches other than on items for decision, excluding speeches in support of or against the taking of Enforcement Action.

(c) No more than one person will be allowed to speak in support or against an item, in addition to the Parish Council(s) and Community Forum(s) affected.

(d) The order of speakers will normally be objector, supporter and where appropriate the Parish Council(s) and Community Forum(s) affected. There is no requirement to hear both sides' views on the item.

5. **Summary of Rights**

Petitions

- Members of the public and/or a duly authorised representative of a Parish Council can submit or speak to a petition at meeting of the **Cabinet** or a Cabinet Committee in relation to executive functions or meetings of the Council or any of its Committees in relation to **non-executive functions**. Please see the exceptions detailed at the commencement of Section 1 of this note.

Questions

- Members of the public and/or a duly authorised representative of a Parish Council can ask a question at meetings of the **Cabinet**, in relation to executive functions or meetings of the Council or any of its Committees or Sub-Committees in relation to functions of the Council and which relates to an item on the agenda for that meeting.

Comments

- Members of the public and/or a duly authorised representative of a Parish Council can comment on items on the Agenda for meetings of the Cabinet (Executive), in relation to executive functions or meetings of the Council or any of its Committees and Sub-Committees.

Planning Committee

- Members of the public and/or a duly authorised representative of a Parish Council or Community Forum may address the Planning Committee on an agenda item subject to the detailed rules as described in Paragraph 4 above.

6. Administration of the Scheme

The operation and administration of the scheme is undertaken by the Proper Officer, (Solicitor to the Council and Monitoring Officer), Civic Centre, Tannery Lane, Ashford. Telephone 01233 330349 for further details about how the Scheme operates, or for advice upon which is the most appropriate Committee or Sub-Committee to deal with your request.

Appendix 4

Access to Information Procedure Rule 22.3 refers

Rights of Access to Meetings and Documents by Councillors

Rights of Access to Meetings and Documents by Councillors

1. Subject to the rules on exempt and confidential information, a Councillor possesses certain rights conferred by law e.g. s/he is entitled to attend Council, the **Cabinet**, Committee and Sub-Committee meetings without hindrance; and, if s/he can show a "need to know" in relation to a particular item of business, s/he can claim a common law right to attend the meeting of Groups, and Forums.
2. A Member may attend any meeting but, unless appointed to the Committee, Sub-committee, Group or Forum or as a substitute Member, shall not vote and save as provided in (3) below may only speak with the permission of the Chair.
3. The **Leader** and /or Cabinet **Member** who have within their portfolio an item the subject of consideration at an Overview and Scrutiny Committee may speak as of right on such matters subject to the Chair of the Committee agreeing the order of speakers.
4. The rights of Councillors to documents emanate from statute and common law - by far the most important being a Councillor's common law rights.
5. Case law on the subject highlights two themes which are often in conflict, namely, the corporate responsibilities and duties of Members of the Council to the Council as a whole and the duties and responsibilities of Councillors as representatives of a wider range of community interest which they are elected to represent.

Common Law Rights

6. In principle, a Member has a right to inspect documents addressed to the Council upon the basis that a Member is under a duty to keep him/herself informed of Council business which relates to their role as an elected representative and which they have a "need to know". Accordingly, if the motive for seeing a document is indirect, improper or ulterior then access can be quite properly barred. So too, a Member does not have a "roving commission" through Council paperwork. In practice this means that if a Councillor is a Member of a Committee then s/he has the right to inspect documents relating to the business of that Committee, if not a Member of that Committee then the Councillor must show cause why the sight of them is necessary to perform his/her duties.
7. The entitlement of a Committee Member to have access to relevant documents at the particular Committee is stronger than that of a non-Member but as indicated it is not an absolute right and improper/indirect/ulterior motives would be a bar to access.

8. A Member of a Committee is normally entitled to see documents relating to the work of a Sub-Committee of that Committee or if the Councillor is a Member of another Committee the administration of which relates to the activities of the relevant Sub-Committee.
9. Where there is a right of access, that right would seem to override the duties of confidentiality owed to third parties only so far as is necessary to give effect to that right. The information should still be dealt with on a confidential basis.

Statute

10. Section 100(f) of the Local Government Act 1972 (As amended) provides additional statutory rights for Members in respect of documents in the possession or under the control of the Council which contains material relevant to business to be transacted at a Council Committee or Sub-Committee meeting. If the particular Member could not establish a "need to know" at common law then the Proper Officer of the Council would be entitled to withhold access if the documents fell within the categories of exempt information within paragraphs 1, 2, 3, 4, 5 and 7 of Schedule 12A to the Act.
11. Procedure Rules provide that requests for information should normally be made to the Proper Officer of the Council (the Corporate Director (Law and Governance)) although it is not unusual for Members to approach the relevant Officer direct - only having recourse to the Proper Officer or the Chief Executive if there is a need to clarify the particular rights of access in relation to the material concerned.

Appendix 5 Access to Information Procedure Rule 3(b) refers

Procedure/Guidance Note – Filming, Photographing or making an Audio Recording of Proceedings at Meetings

Procedure/Guidance Note – Filming, Photographing or making an Audio Recording of Proceedings at Meetings

Members of the public are allowed to report^a at all meetings of the Authority which are open to the public to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. In order to ensure effective management of meetings held in public at which rights are being exercised, the following procedures will be adopted.

1. The filming, photographing or making an audio recording of proceedings of meetings of the Authority and its Committees and Sub-Committees and the executive and its committees whilst those meetings were open to the public is permitted.
2. Those persons wishing to film, photograph, or make an audio recording of proceedings should give prior notification in writing or by telephone to the Member Services Manager or the Chair of the Committee of their intentions to film or record prior to the commencement of the meeting.
3. The filming, photographing or audio recordings should only be made from the designated public seating area and with the knowledge of the Chair of the meeting. Also:-
 - (a) filming, photography or audio recordings should not be disruptive and distracting to the good conduct of the meeting and recording devices must be set in silent mode.
 - (b) no flash or additional lighting is permitted.
 - (c) filming, photography or audio recordings should normally be taken from one fixed position and must not obstruct others from observing proceedings.
 - (d) attendees would be advised at the start of the meeting that is being filmed, photographed or audio recorded.
 - (e) a person undertaking the filming or audio recording shall respect any request from members of the public that they do not wish to be filmed.
 - (f) there shall be no oral commentary permitted in the Meeting Room.

^a 'reporting' means –

- Filming, photography or making an audio recording of proceedings at a meeting.
- Using any other means of enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- Reporting or providing commentary on proceedings at a meeting orally or in writing so that the report or commentary is available as the meeting takes place or later to persons not present.

4. The Chair of the meeting shall instruct that filming, photographing or audio recordings be stopped where:-
 - (a) During those parts of the meeting when the press and public have been excluded due to the nature of the business being discussed i.e. either exempt or confidential matters.
 - (b) There is a public disturbance or suspension/adjournment of the meeting.
 - (c) The recording has become disruptive or distracting to the good order and conduct of the meeting.
 - (d) Continued recording is against the wishes of an individual.

Use of Recordings by Third Parties

The Council will expect those filming or audio recording the proceedings to abide by (a) and (b) below:-

- (a) Any published filming or audio recording should be accompanied by a statement of when and where the filming and audio recording was made, the context of the discussion that took place and a clear identification of the main speakers and their role or title.
- (b) Those undertaking the filming or recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees.

Financial Procedure Rules

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1. Introduction

Background

- 1.1 Financial Procedure Rules are designed to maintain an acceptable standard of financial administration. They must be available to and followed by all Officers, Members and agents acting for the Council. Together with Standing Orders they regulate the conduct of the Council's business.
- 1.2 To help you understand the terminology used in the Financial Procedure Rules a Glossary of Terms is attached at Appendix A.
- 1.3 The contents are set out in alphabetical order for ease of reference.

Legislation

- 1.4 Section 151 of the Local Government Act 1972 requires every local authority "to make arrangement for the proper administration of their financial affairs and secure that one of their Officers has responsibility for the administration of those affairs" The Council has appointed the Corporate Director (Finance and Economy) as the Section 151 Officer and the Head of Finance and IT as the designated deputy.
- 1.5 Section 114 of the Local Government Finance Act 1988 requires the Officer appointed under Section 151 to report to the Authority and the external auditor:
 - 1.5.1 If it appears to him/her that the Authority, the **Executive**, a Committee, Officers of the Authority or a **Joint Committee** on which the Authority is represented:
 - i Has made or is about to make a decision which involved or would involve the Authority incurring expenditure which is unlawful.
 - ii Has taken, or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority.
 - iii Is about to enter an item of account, the entry of which is unlawful.
 - 1.5.2 Make a report under this section if it appears to him/her that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.

- 1.6 The Accounts and Audit Regulations 2011 (as amended) reiterate the responsibilities of the 'Section 151 Officer' with regard to accounting records and maintenance of proper accounting practices. These regulations place the responsibility for the maintenance of an adequate and effective system of internal audit on the Authority as a whole.
- 1.7 Section 76 of the Local Government and Housing Act 1989 requires the Council to take corrective action if there is likely to be a deficit on the Housing Revenue Account.

Scope and Review

- 1.8 It is the responsibility of Heads of Service to ensure that all staff in their departments are aware of their responsibilities according to the Financial Procedure Rules and other regulatory documents (eg the Anti-Fraud and Corruption Policy, the Money Laundering Policy) and comply with them.
- 1.9 Failure to follow the Financial Procedure Rules and Standing Orders will be reported to the Corporate Director (Finance and Economy) immediately and, if serious, to the **Cabinet** and may be treated as a disciplinary offence.
- 1.10 Financial Procedure Rules also apply to agents and consultants acting for the Council and services carried out under agency arrangements or partnerships, unless specifically exempted by the relevant Head of Service and the Corporate Director (Finance and Economy).
- 1.11 All Members and Officers have a general responsibility for taking reasonable action to provide for the security of assets under their control, and ensuring that the use of these resources is legal, is properly authorised and provides value for money.
- 1.12 The Corporate Director (Finance and Economy) is responsible for maintaining a continuous review of these regulations and submitting any changes necessary to Full Council for approval.

Interpretation

- 1.13 On a day-to-day basis, queries should be directed to the Head of Finance and IT.
- 1.14 All references to Heads of Service relate to the Chief Executive, Directors, and all other Heads of Service.

2. Accounting Records and Procedures

- 2.1 The Section 151 Officer is responsible for keeping the Council's accounts in accordance with statutory requirement.

- 2.2 Heads of Services shall consult the Corporate Director (Finance and Economy) before changing any accounting procedures, financial records or the implementation or development of computer systems that involve a financial operation or produce output that may influence the allocation of resources.
- 2.3 The following principles will apply in accounting procedures:
- 2.3.1 Calculating, checking and recording of sums due to or from the Council will be separated as completely as possible from their collection or payment.
- 2.3.2 Officers responsible for examining and checking cash transaction accounts will not process any of these transactions.
- 2.4 The Principal Accountant is responsible for ensuring financial and management accounting information is available for all services administered by the Council in either computer screen or hard copy format.
- 2.5 The Council's statutory accounts will be prepared in accordance with the Accounts and Audit Regulations 2003 (as amended) and the current Code of Practice on Local Authority Accounting in Great Britain.
- 2.6 The Principal Accountant shall have overall control of the closing of the Council's accounts and preparation of the Council's Statement of Accounts. Heads of Service shall comply with the closing of accounts timetable and guidance issued by the Principal Accountant.

3. Asset Management

- 3.1 The Head of Corporate Property and Projects shall be responsible for preparing the Property Strategy (which incorporates the Asset Management Plan). Responsibility for the management of assets is shared between the relevant Heads of Service.
- 3.2 The Head of Legal and Democracy will maintain a register of all land and property owned or leased by the Council, and shall have custody of all title deeds and keep them under secure arrangements.
- 3.3 Disposal of surplus land and buildings to be carried out in accordance with the approved Disposals and Acquisitions Policy.
- 3.4 The Principal Accountant is responsible for maintaining the Council's Asset Register to reflect acquisitions, capital expenditure and disposals as appropriate.

4. Audit

Internal Audit

- 4.1 In accordance with the Accounts and Audit Regulations 2011 (as amended), the Council shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control, and any Officer or Member shall:-
- 4.1.1 Make available to Internal Audit such documents that relate to the Council's accounting and other records that appear to be necessary for the purpose of the audit; and
- 4.1.2 Supply Internal Audit with such information and explanation as is considered necessary to Internal Audit for the purpose.
- 4.2 Internal Audit operates in accordance with the Code of Practice for Internal Audit in Local Government in the United Kingdom, published by CIPFA and with Terms of Reference and the Audit Strategy, which are endorsed by the Audit Committee.
- 4.3 Internal Audit is provided through the Mid Kent Internal Audit Partnership. The Head of Audit Partnership has the right of access directly to the Section 151 Officer, the Chief Executive, the Chair of the Audit Committee, and the **Leader**.
- 4.4 The scope for Internal Audit is the 'entire control environment'. This means that the scope for Internal Audit includes all the Council's own operations, resources, services and also its responsibilities in relation to other bodies. In order to turn this generic description into actual subjects for audit, the Head of Audit Partnership uses a Risk Assessment Method which allows all high risk subjects to be identified. Although this process inevitably identifies the Council's fundamental financial systems as being 'high risk', other non-financial systems and functions are also identified as important areas for review by Internal Audit.
- 4.5 A three-year Strategic Plan will be created by the Head of Audit Partnership, which will be endorsed by the Audit Committee. A one-year Operational Plan will be created each year from the Strategic Plan. The Head of Audit Partnership will report the work performed against the Plan to the Audit Committee on a six-monthly basis.

Preventing Fraud and Corruption

- 4.6 The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside the Authority.

- 4.7 The Head of Audit Partnership shall maintain the Council's Corporate Anti-Fraud and Corruption policy. A copy of the Council's Anti-Fraud and Corruption Policy is available to all staff on the Council's Intranet.
- 4.8 It is the duty of all Officers and Members who are aware of any financial irregularity to follow the Corporate Anti-fraud and Corruption Policy.

Whistleblowing

- 4.9 The Council has a Whistleblowing Charter to enable employees to raise their concerns at an early stage and in the right way.
- 4.10 This Charter is available on the Council's intranet.

Money Laundering

- 4.11 It is the Council's policy to do all it can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 4.12 The Council has nominated the Head of Audit Partnership as the Money Laundering Reporting Officer and the Corporate Director (Finance and Economy) to be the deputy.
- 4.13 The Anti-Money Laundering Policy is available on the Council's Intranet.

Unofficial Funds

- 4.14 Directors and Heads of Services are responsible for ensuring the proper administration of unofficial funds, that is any funds associated with Council business, supervised or managed by Council Officers but not part of the Council's funds (e.g. Mayor's accounts, Trust Funds etc.)
- 4.15 The Corporate Director (Finance and Economy) will be notified of any unofficial funds and give advice on keeping and auditing them.
- 4.16 Any Officer holding unofficial funds will produce an accurate account in writing of all financial transactions, with associated supporting documentation.

5. Banking Arrangements

- 5.1 The Corporate Director (Finance and Economy), as the appointed S151 Officer, has overall responsibility for the sound operation of the Council's Bank Accounts. This is delegated for day to day operations to the Exchequer Manager.

- 5.2 The Corporate Director (Finance and Economy) will review the Council's banking arrangement at least every 5 years.
- 5.3 The Corporate Director (Finance and Economy) and other Officers approved in writing by the Corporate Director (Finance and Economy) each have authority, in accordance with the mandate given to the bank, to sign and be accepted as satisfactory signatures for any other purpose in connection with the Council's Bank Accounts. The Exchequer Manager shall maintain a register all such Authorised Officers.
- 5.4 Cheques and electronic payment instructions for amounts of £20,000 and above require two authorising signatures.
- 5.5 All bank accounts are to be reconciled to the cash book by the end of the following month to which they relate.

6. Budget Process

Introduction

- 6.1 The Corporate Director (Finance and Economy) shall have overall responsibility for the co-ordination and preparation of the Council's Budget (i.e. Capital, General Fund Revenue and Housing Revenue Account Budgets).
- 6.2 Each year the Corporate Director (Finance and Economy) will prepare timetables for the preparation, submission and approval of the Medium Term Financial Forecast, Capital Programme, Prudential Indicators and detailed Revenue Budgets.
- 6.3 All budgets will be prepared in accordance with the Budget and Policy Framework Procedure Rules.

Capital Programme

- 6.4 The definition for capital expenditure is taken from the Capital Finance Regulations 2003 (as amended), in summary expenditure is deemed to be capital when it relates to:
- Purchase or construction of an asset;
 - Enhancement of an asset;
 - Grants for capital purposes.
- 6.5 The Corporate Director (Finance and Economy) will prepare a draft capital programme, which includes all capital schemes undertaken by the Council regardless of funding. The programme will be submitted to the **Cabinet** for approval together with the estimate of resources available.

- 6.6 The Corporate Director (Finance and Economy) will submit to the **Cabinet** a set of Prudential Indicators outlining the revenue impact of the capital programme as part of the Budget Report.

Medium Term Financial Plan

- 6.7 In conjunction with the Management Team the Corporate Director (Finance and Economy) shall prepare recommendations for the Council's **Budget Strategy** to be considered by the **Cabinet**.
- 6.8 Heads of Service will prepare information needed to produce the Medium Term Financial Plan for each of their services.
- 6.9 A Budget Forecast shall be presented to the **Cabinet** each autumn.
- 6.10 The **Cabinet** will consider this and determine the overall level of resources to be made available, and the limits within which the detailed budgets can be prepared.
- 6.11 A Draft **Budget** shall be presented to the **Cabinet** in December of each year.

Detailed Revenue Budget

- 6.12 Heads of Service will prepare budget estimates of income and expenditure for the next financial year in accordance with the timetable as specified by the Corporate Director (Finance and Economy).
- 6.13 These estimates will reflect the Medium Term Financial Plan and the decision of the **Cabinet** as detailed above.
- 6.14 Each budget will be cash limited, and any minor variations in spending will be met from the approved budget.
- 6.15 The Corporate Director (Finance and Economy) will report the detailed draft Revenue **Budget** to Management Team for consideration and approval. This will subsequently be submitted to the **Cabinet** as part of the budget report.

Budget Scrutiny Process

- 6.16 The **Cabinet's** draft budget proposals will be referred to the Overview and Scrutiny Committee in December each year for examination and consideration.
- 6.17 The Overview and Scrutiny Committee shall report to the **Cabinet** on the outcome of its deliberations before the final budget report is submitted to the Cabinet in February.

Approval of Annual Revenue Budget

- 6.18 By the 1st March each year the Council shall determine the Revenue and Capital Budgets, Prudential Indicators, Housing Rents and Council Tax levels for the year beginning on the following 1st April.

7. Budgetary Control

Introduction

- 7.1 Once the Council agrees the **Budget**, responsibility for its implementation passes to the **Cabinet**, with responsibility for ensuring compliance with the Council's overall Budget. Cabinet must ensure that wherever appropriate and necessary corrective action is taken in accordance with the Council's Budgetary Control Procedures.
- 7.2 The **Cabinet** shall recommend to the Council any amendments to the Budgetary Control Procedure as part of its Budget proposals.

Authority for Incurring Expenditure

Normal Revenue Expenditure

- 7.3 The Chief Executive, Directors, Heads of Service, and their duly Authorised Officers may incur expenditure on items already approved specifically or generally within the Council's Budget or Capital Programme, provided no overspending or under-recovery will occur.
- 7.4 Heads of Service have operational responsibility for the Budget and shall manage the budgets at their disposal and be accountable to the **Cabinet** for performance. Budget resources are to be deployed to deliver agreed service objectives and priorities.
- 7.5 Delegation to duly Authorised Officers is necessary for practical purposes. These delegations form lines of accountability, which should be clear, well communicated and regularly reviewed. They also provide control through appropriate levels of authorisation and separation of duties.
- 7.6 Heads of Service will provide the Corporate Director (Finance and Economy) with details of all financial delegations made to Officers.

- 7.7 Where an urgent spending decision (e.g. Civil Emergency, Legal Imperative or other such service critical events) is required, in excess of £100,000, the Chief Executive may authorise such expenditure as is necessary, with the approval of the Chair of the Overview and Scrutiny Committee. This must be ratified at a later date by the **Cabinet**. Under no other circumstances should expenditure be incurred without appropriate provision put in place first. Further guidance is available in Section 4 of the Budgetary and Policy Framework Procedure Rules.

The Authority to Use Reserves

- 7.8 All other uses of reserves to fund expenditure will need approval by the Cabinet with the exception of:
- the Management Team, in either exceptional and urgent cases where this might be justified or where an amount may be needed to deal with some other service issue including investment to achieve greater efficiency may deploy reserves up to the value of £100,000 in each case. In all cases where the flexibility is applied the Chief Executive must liaise with the **Leader**, the relevant **Cabinet Member** and the Corporate Director (Finance and Economy) (as Chief Financial Officer) and must report any application of reserves to the **Cabinet** as part of the budget monitoring cycle.

The use of this flexibility is for exceptional circumstances and not to be routinely applied, and in all cases the use of the delegation must be consistent with the council's business plan priorities. It is a requirement to review this delegation each year as part of the budget cycle.

- In cases where a request is made by a Portfolio Holder to the relevant Head of Service, or where a Head of Service after consulting the relevant Portfolio Holder identifies a relevant need to resolve an issue urgently or to address immediate community concerns regarded of sufficient priority and where other budgets are not available then a Head of Service has delegated authority to spend up to £5,000 on any one occasion without Management Team or Cabinet approval. The use of this delegation is subject to the following:
 - a) Use of the delegation is not intended as a general supplementary spending power
 - b) Consideration must first be given to the use of budgets within the responsibility of the Head of Service, or after consultation with another Head of Service where a budget may be available to address the need

- c) That consideration must be given to any relevant processes in place to determine resource allocation priorities (for example the Single Grants Gateway) and therefore consultation with the relevant officer must take place
 - d) That the Corporate Director (Finance and Economy) is notified of the use of the delegation so that it may be reported in the next available Budget Monitoring Report
 - e) That an overall cap of £100,000 on the use of the delegation applies and when this is reached the Cabinet will conduct a full review of the application of the delegation.
- The Head of Paid Service, following consultation with the Head of HR and Customer Services be delegated to approve staff termination costs (redundancy payments and payments in lieu of notice and other compensation) associated with reductions in staffing, which are supported by the Joint Consultative Committee and the relevant Portfolio Holder. This delegation would not cover the approval of pension fund compensation costs relating to any early retirement cases on the grounds of redundancy or efficiency as these must be approved by the Full Council. Information explaining the use of the delegation must be included in Budget Monitoring Reports to the Cabinet. Staff severance costs, where not funded by immediate revenue savings would be met from reserves, for which an amount is set aside.

Budget Monitoring

- 7.9 The Corporate Director (Finance and Economy) is responsible for providing appropriate financial information to enable the Budget to be monitored effectively. They must monitor expenditure and income against budget allocations and produce a Budget Monitoring Statement which is to be reported to the Management Team and quarterly to the **Cabinet**.
- 7.10 A provisional outturn report shall be submitted to the **Cabinet** by no later than the 30th June each year to include material variances at service.
- 7.11 It is the responsibility of Heads of Service to control income and expenditure within their cash limit and to monitor performance. They should take any action necessary to avoid exceeding their budget allocation and alert Finance to any problems.
- 7.12 The Management Team or **Cabinet** shall be entitled to require corrective action to be taken to deal with either a forecast or known overspending or to accommodate a new demand that is considered important or unavoidable.
- 7.13 Corrective actions may take the form of a re-allocation of budgets (virement) or the suspension or deletion of other planned expenditure.

- 7.14 Where overspendings arise and where there is no evidence of corrective action having been considered or taken, the Corporate Director (Finance and Economy) shall be entitled to recommend to the **Cabinet** that the overspending be corrected from within the following year's **Budget**.
- 7.15 The **Cabinet** has the ability to transfer from the General Fund Balance any amount which would not take the balance below the minimum level, determined each year by the Council at its **Budget** setting meeting, so as to compensate for pressure, but only as a final measure once all other possibilities for corrective action have been considered.
- 7.16 The Management Team has flexibility to apply reserves up to the value of £100,000 per occasion to compensate for exceptional cost pressures or where investment is required to enable longer term revenue savings to be made. The Corporate Director (Finance and Economy) (as s151 Officer) should approve any application of reserves by the Management Team and should ensure that any actions of the Management Team are reported to the **Cabinet** in the next Budget Monitoring Report.

Virements

- 7.17 The **Cabinet** will always consider proposals for new initiatives other than those brought forward under the delegations.
- 7.18 Virements must be within the same fund i.e. virements cannot be made between the HRA and General Fund. It may be possible to vire from Revenue Budgets to the Capital Programme in certain circumstances.
- 7.19 Officers shall be entitled to vire within revenue Budget Heads up to an amount of £100,000 without reference to the **Cabinet** subject to virements under £50,000 being made in consultation with the Corporate Director (Finance and Economy) and between £50,000 and £100,000 being approved by Management Team in consultation with the relevant **Cabinet Member** and the **Cabinet Member** for Finance and IT.
- 7.20 In excess of £100,000 Officers shall be entitled to vire within Budget Heads only after reference to and with the agreement of the **Cabinet**.
- 7.21 The Management Team may approve virements between capital projects; of up to 10% of the budget or £100,000, whichever is the lesser. The **Cabinet** shall approve all other capital virement proposals outside of these limits.
- 7.22 Proposals to be financed by virement that involve on-going future years' costs must be matched by on-going savings.
- 7.23 Where a Head of Service is unable to find a compensatory saving within their own budget, Management Team should consider options to find other suitable virements.

Carry Forward of Resources at Year End

- 7.24 Limited carryover of underspent Revenue Budgets to the next financial year will be possible under the following conditions:
- 7.24.1 The Budget carry forward scheme will only apply once all overspending in the year have been contained within the overall budget level set for the year.
 - 7.24.2 Carry forwards are only permitted on Budget Heads that are under the direct control of the Head of Service.
 - 7.24.3 Carry forwards can only be used to finance one-off types of expenditure.
- 7.25 All requests with justifications for carry forwards are to be submitted to the Corporate Director (Finance and Economy) by the end of April following the end of the financial year, these will then be summarised and submitted to Management Team for approval. The summary will then be included for information as part of the Final Outturn report submitted to the **Cabinet**.
- 7.26 The Corporate Director (Finance and Economy) shall be permitted to carry forward to a following Financial Year the Budget provision remaining for any capital project.

8. Code of Conduct for Employees

- 8.1 The Code of Conduct for Employees applies to and will be followed by all Officers. A copy of the Code of Conduct is available to all staff on the Council's intranet.

9 Contracts for Works, Goods and Services

Standing Orders

- 9.1 Heads of Service will ensure compliance with the Council's Standing Orders for Contracts.
- 9.2 As far as practicable, Financial Procedure Rules apply to works entered into on behalf of a body from whom the Council has accepted delegated powers, or for whom the Council acts as an agent. The requirements of any such body should be followed if they differ from these Financial Procedure Rules or Contract Procedure Rules.
- 9.3 In the case of contracts entered into by the Council and supervised by consultants, any agreement with the latter should include a requirement to comply with the Council's Financial Procedure Rules and Contract Procedure Rules.

Tenders

- 9.4 A satisfactory Financial Reference and evidence of appropriate insurance will be obtained for the successful tenderer for all contracts formally procured.
- 9.5 No contract will be entered into unless the relevant Head of Service is confident of the tenderer's ability to complete the contract.
- 9.6 Guidance on accepting tenders both within and exceeding the budget is contained in Section 6 of Contract Procedure Rules.

Contract Payments

- 9.7 Heads of Service, or their named representatives, shall be responsible for issuing interim payment certificates, which show the value of works to date, the amounts previously paid, retention to be held and indicating an appropriate level of liquidated damages (if any).

Variations

- 9.8 Guidance on Variations to tenders is contained in Section 7 of Contract Procedure Rules

Final Account

- 9.9 Final certificates shall be issued in all cases.
- 9.10 The appropriate Head of Service or duly Authorised Officer will be fully responsible for the accuracy of the final account supporting such final certificate.
- 9.11 Claims from contractors for matters not clearly within the terms of any existing contract will be referred to the Head of Legal and Democracy to consider the Council's legal liability and, where necessary, to the Corporate Director (Finance and Economy) for financial consideration before a settlement is reached.

10. Corporate Credit Cards

- 10.1 The Exchequer Manager has responsibility for the issue of Corporate Credit Cards. This will only be done on the written request of the appropriate Head of Service. The credit limit is at the sole discretion of the Exchequer Manager.
- 10.2 Corporate Credit Cards may only be used for Council business and in no circumstances used for personal purposes.

- 10.3 Corporate Credit Cards must only be used in accordance with the Guidance notes for the use of Credit Cards, issued by the Exchequer Manager, available on the Intranet.
- 10.4 All payments made must be supported by the appropriate documentation and properly certified by an Authorised Officer.
- 10.5 Any misuse of a Corporate Credit Card will result in the card being withdrawn and if significant could lead to disciplinary action.

11. **Corporate Governance and Risk Management**

- 11.1 The Council has approved and adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government'.
- 11.2 The Council issues an Annual Governance Statement on a yearly basis, which is signed by both the **Leader** and the Chief Executive. This is a formal statement that confirms that the Council has ensured that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.
- 11.3 Management Team is responsible for ensuring that Council's Risk Management Policy is regularly kept under review and that all corporate risks are identified, assessed and appropriate controls are put in place as part of the corporate governance/risk management process.
- 11.4 Heads of Services are responsible for ensuring that business risks, specific to their area of responsibility, are identified, assessed and that appropriate controls are put in place as part of the corporate governance/risk management process in accordance with the Council's Risk Management Policy.
- 11.5 A copy of the Council's Risk Management Policy is available on the Council's Intranet.

12. **External Funding**

- 12.1 External funding is potentially a very important source of income, but funding conditions need to be carefully monitored to ensure they are compatible with the aims and objectives of the Council.
- 12.2 The Principal Accountant shall be responsible for preparation of claims for Government grants and subsidies, and the Corporate Director (Finance and Economy) shall be responsible for their authorisation.

- 12.3 Heads of Service may claim other grants and contributions subject to any match funding required being first approved by the **Cabinet** (in relation to **executive functions**) or the Council or other relevant Council **Committee** (in relation to **non-executive functions**).
- 12.4 Funding should only be sought to meet the priorities approved in the Council's Corporate Plan and Budget Framework approved by Full Council.
- 12.5 Heads of Service shall ensure that:
- 12.5.1 Conditions of funding and any statutory requirements are complied with.
 - 12.5.2 The responsibilities are clearly understood.
 - 12.5.3 The project progresses in accordance with the agreed project plan and conditions.
 - 12.5.4 All expenditure is properly incurred and accounted for.
 - 12.5.5 All claims for funds are made by the due date.
 - 12.5.6 Future revenue implications are included within the Medium Term Financial Plan.
 - 12.5.7 Appropriate exit strategies exist.
 - 12.5.8 The Corporate Director (Finance and Economy) is informed of all bidding for external funds.
 - 12.5.9 That all the necessary records are kept to substantiate claims for audit purposes.
- 12.6 The Corporate Director (Finance and Economy) shall ensure that all funding awarded by external bodies is received and properly recorded in the Council's accounts and that all audit requirements are completed with.
- 12.7 The responsible Officer for each externally funded revenue scheme will provide the Corporate Director (Finance and Economy) before the start of each financial year, the estimates for the next Financial Year broken down over heads of expenditure. Performance against these estimates will be reported as part of the Council's Revenue Budget monitoring arrangements.
- 12.8 Capital schemes supported by external funding will be monitored and reported as part of the Council's Capital Programme monitoring arrangements.

13. **Financial Limits Relating To Contracts, Financial Procedure Rules And Budget Thresholds**

- 13.1 Financial limits will be reviewed on an annual basis after taking account of an inflation index and Management Team's comments and any legislative changes.
- 13.2 **Key Decision** Thresholds (KDTs) are required for the purpose of determining whether decision to be taken by the Cabinet should appear in the Schedule of Key Decisions. Key Decisions which the Cabinet may resolve, may then be the subject of formal scrutiny. KDTs are to be reviewed annually.
- 13.3 Changes to the financial limits, including the virement limits and budget thresholds, will be reported to Members annually with the Revenue Budget report.
- 13.4 The Procurement and Contract Manager shall, in consultation with the Solicitor to the Council and Monitoring Officer and the Corporate Director of Housing, Technology and Finance, review Contract Standing Orders and the financial thresholds therein at least every two years, to take account of changes in EU thresholds, retail price index and other factors so that the effectiveness and impact is maintained.
- 13.5 A list of the current financial limits are included in Contract Standing Orders Appendix A: Procurement Route.

14. **Hospitality Register**

- 14.1 The Council has a policy for the treatment and recording of hospitality offered to Officers. Officers are required to record all such offers within the Hospitality Register. Failure to do so may result in disciplinary action.
- 14.2 Heads of Service must record in the Hospitality Register their approval of all offers of hospitality, including whether it is accepted or declined. All declarations are to be included within the Council's disclosures on transparency.
- 14.3 Further guidance is available in Conditions of Service available on the Council's Intranet.

15. Income

Setting Fees and Charges

- 15.1 The Corporate Director (Finance and Economy), in consultation with Heads of Service, will be responsible for advising the **Cabinet** on the fixing of fees and charges for services, except for Building Control Fees and Taxi and Hackney Carriage Licence Fees, which will be reported by the appropriate Head of Service.
- 15.2 Fees and charges will be reviewed at least annually.
- 15.3 In respect of services where charges apply or may apply in circumstances where services are obliged through regulations to achieve cost recovery or where other market led factors influence the service and its charging structure, the relevant Head of Service has the discretion to determine appropriate service fees and charges after consulting with the Corporate Director (Finance and Economy) and the relevant **Cabinet Member**.

Collection of Income Due

- 15.4 The Corporate Director (Finance and Economy) and the Exchequer Manager are responsible for paying all monies received into the Council's bank, normally not later than the next day of business.
- 15.5 Individual Officers shall be responsible for any monies received by them on behalf of the Council. They must follow the procedures for paying in, receipting and accounting which have been agreed between their Head of Service the Corporate Director (Finance and Economy) and the Exchequer Manager.
- 15.6 All receipts, tickets and similar documents or stationery dealing with receipt of monies will be subject to the approval of the Head of Finance and IT and the Exchequer Manager.
- 15.7 Every sum received by a Council Officer will be immediately acknowledged by the issue of an official receipt, ticket or vouchers, except for cheques and bank transfers where the Corporate Director (Finance and Economy) and the Exchequer Manager may agree other arrangements.
- 15.8 Heads of Services will inform the Corporate Director (Finance and Economy) and the Exchequer Manager of all contracts, agreements, grant claims etc. that will result in the Council receiving money. This ensures that the cash can be identified when it is received.
- 15.9 The payment kiosks machine will be reconciled at least once every two months to confirm the accuracy of the balance of the change float held.

- 15.10 All monies received by the Council on behalf of a third party, will be accounted for and paid to that third party without delay, or in accordance with any agreement or instruction by the Corporate Director (Finance and Economy) and the Exchequer Manager, after deduction of any amounts due in respect of commission or other allowance due to the Council.
- 15.11 All systems that record income will be reconciled monthly to the Council's financial management system by the end of the following month to which they relate.
- 15.12 Personal cheques shall not be cashed out of money held on behalf of the Council, except in accordance with the approval of the Head of Finance and IT and the Exchequer Manager.

Invoicing of Income Due

- 15.13 Heads of Service shall be responsible for ensuring that debtors' invoices are raised promptly for credit income due to the Council in respect of their services.
- 15.14 The Revenues and Benefits Manager shall maintain the Council's Corporate Debt Recovery Policy and all debt recovery will be carried out in accordance with that policy and related procedures. A copy of the Council's Corporate Debt Recovery Policy is available on the Council's Intranet.
- 15.15 Credit terms for all sundry debts due to the Council shall be 21 days, unless agreed otherwise with the Revenues and Benefits Manager.
- 15.16 Details of Officers authorised to cancel and amend sundry debts will be sent to the Revenues and Benefits Manager, together with specimen and authority limits. The Revenues and Benefits Manager will maintain a register of all such Authorised Officers and ensure it is used by debtor staff to authenticate all credit notes and cancellations requested.
- 15.17 Court action will only be taken following consultation with the relevant Head of Service.
- 15.18 At the end of each Financial Year Heads of Service will notify the Corporate Director (Finance and Economy) of all income due before the end of the Financial Year but not yet invoiced, in accordance with the closure timetable issued.

16. Insurance

Under the direction of the Corporate Director (Finance and Economy) the following will apply:

Insurance Cover

- 16.1 The Insurance Officer shall be responsible for the Council's insurance portfolio including claims handling, keep a register of insurances and ensure that the Council's insurance arrangements are reviewed each year.
- 16.2 Before the annual renewal of insurance cover, the Insurance Officer will provide Heads of Services as necessary with a summary of all current insurances to check and review their adequacy.
- 16.3 Fidelity guarantee insurance will be arranged for all Council employees and Members, although the extent of cover will differ according to responsibilities.
- 16.4 Where there is any doubt that a proposed action is covered by insurance, the Head of Service will consult the Insurance Officer before entering into any contractual commitment.

Insurance Claims

- 16.5 Heads of Service shall inform the Insurance Officer without delay all new risks, changed or deleted risks and events that might lead to an insurance claim, either by the Council or against the Council.
- 16.6 Heads of Service will respond to queries in respect of claims relating to their services without delay. For some types of claim the Council is required to respond within fixed deadlines and these must be adhered to, to protect the Council's interests.
- 16.7 No Officer will admit liability, take any action or enter into any correspondence admitting liability on behalf of the Council.

17. Partnerships and Other External Works

- 17.1 Where the Council enters into a partnership or shared service arrangement with another organisation, the appropriate Head of Service will be responsible for:
 - 17.1.1 Submitting a fully costed business plan to the Corporate Director (Finance and Economy) for checking and to Management Team or the **Cabinet** for approval as appropriate.
 - 17.1.2 Ensuring that before entering into agreements with external bodies, a risk appraisal has been prepared.
 - 17.1.3 Ensuring that such agreements and arrangements do not impact adversely upon the services provided by the Authority.
 - 17.1.4 Ensuring that all agreements are properly documented.

- 17.1.5 Providing appropriate information to the Corporate Director (Finance and Economy) to enable a note to be entered into the Council's Statement of Accounts concerning material items.
- 17.2 The Corporate Director (Finance and Economy) and Head of Legal and Democracy shall be consulted on any proposal to externalise a Council service (in whole or in part) involving competitive tendering, negotiation or any other form of financial arrangement. All proposals will then be forwarded to Management Team for approval and where appropriate submitted to the **Cabinet**.
- 17.3 The Corporate Director (Finance and Economy) shall be consulted on any in-house bid in response to an invitation to tender before it is submitted. All proposals will then be forwarded to Management Team for approval and where appropriate submitted to the **Cabinet**.

18. Payment of Invoices

- 18.1 The Exchequer Manager is responsible for examining and verifying invoices when they are input into the invoice register. Where an order has been raised and the goods or services receipted by the appropriate Authorised Officer and the invoice matches the order, payment will be made, any exceptions will be returned to originating Officers for certification.
- 18.2 Details of Officers authorised to sign such certifications will be sent to the Exchequer Manager by each Head of Service, together with specimen signatures and authority limits, in accordance with the delegations granted under the Financial Procedure Rules relating to Budgetary Control. The Exchequer Manager will maintain a register of all Authorised Officers and ensure that this information is properly reflected in the Financial Management System.
- 18.3 When certifying an invoice for payment the officer is confirming that the payment is correct in all respects including:
- 18.3.1 The work, goods or services, to which the account relates have been received, carried out, examined and approved.
- 18.3.2 The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct and agree with the Official Order or contract.
- 18.3.3 The relevant expenditure has been properly incurred and is within the approved budget.
- 18.3.4 Appropriate entries have been made in inventories, stores records or other records as required,

- 18.3.5 The account has not been previously passed for payment and is a proper liability of the Council.
- 18.3.6 The correct expenditure code has been inserted in respect of each item.
- 18.4 Where an invoice is found to be incorrect, e.g. because of an addition error, the VAT is incorrectly calculated or the invoice is not addressed to the Authority, it should be returned to the supplier with an explanatory note. Handwritten amendments should not be made to an invoice as this may invalidate the recovery of VAT.
- 18.5 It is the individual Officer's responsibility to make any investigations he/she deems necessary before giving that certification.
- 18.6 Invoices for payment shall be passed to the Exchequer Manager without delay. All payments will be processed for payment 28 days from date of the invoice unless alternative terms are required and explicitly stated. Payment made outside the agreed payment terms can incur statutory interest (8% above bank base rate).
- 18.7 Heads of Service will notify the Corporate Director (Finance and Economy) of all outstanding expenditure relating to the previous Financial Year in regard to goods and services received in that Financial Year, in accordance with the agreed Closure Timetable.

19. **Petty Cash Accounts And Cash Floats**

- 19.1 The issue and use of petty cash and cash floats will under the overall control of the Corporate Director (Finance and Economy).
- 19.2 Use of petty cash will be kept to a minimum and limited to expenses which are unavoidable or conveniently payable in this manner. They will not include items over £30 unless agreed by the Corporate Director (Finance and Economy).
- 19.3 Vouchers must be obtained to support all items of expenditure and must be presented, together with the standard summary of expenditure form, duly coded and authorised for reimbursement.
- 19.4 Income received on behalf of the Council will not be paid into a petty cash account.
- 19.5 Officers responsible for petty cash accounts and cash floats will give the Corporate Director (Finance and Economy) an annual certificate for each account balance in accordance with agreed Closure Timetable.

20. Procurement of Work, Goods and Services

Procurement Strategy

- 20.1 Heads of Service are expected to ensure that all procurement activities comply with the Procurement Procedures and Contracts Standing Orders.
- 20.2 The Procurement Strategy is available on the Council's Intranet.

Official Orders

- 20.3 Heads of Service shall be responsible for purchase orders issued by their staff. By placing an order, the member of staff commits the Council to a contract. Therefore, it is important to establish that there is sufficient budget to fund the purchase prior to placing the order.
- 20.4 All orders will be issued through the Financial Management System except in agreed circumstances, such as for supplies of gas and electricity services, petty cash purchases or where a formal contract is to be prepared.
- 20.5 If it is not practicable to issue an Official Order when the order is placed, one will be completed immediately afterwards by the Officer placing the order, and marked 'Confirmation of telephone or verbal order'.

Goods Receipts

- 20.6 Official Orders will be goods receipted by the Officer responsible for the works or receiving the goods. When an Officer receipt goods and services he/she is confirming that the order is correct in all respects and may be paid. The checks to be made will include:
- 20.10.1 That the work, goods or services, to which the account relates have been received, carried out, examined and approved.
- 20.10.2 That the price, extensions, calculations, trade discounts, other allowances, credits and tax is correct and agrees with the Official Order or contract.
- 20.10.3 That the relevant expenditure has been properly incurred and is within the relevant budget.
- 20.10.4 That appropriate entries have been made in inventories, stores records or other records as required.
- 20.10.5 That the account has not been previously passed for payment and is a proper liability of the Council.

20.10.6 That the correct expenditure code has been inserted in respect of each item

20.11 It is important to provide separation of duties between Officer raising and goods receiving orders.

Use of Consultants

20.12 Guidance on the Use of Consultants is detailed in Procurement Guidance for Officers.

Use of Agency Staff

20.13 Guidelines on procurement of temporary agency staff can be found on the Council's SmartHub.

Contracts

20.14 Contract Procedure Rules set out the procedures for inviting and accepting quotations and tenders.

21. Protection of Private Property in the Temporary Custody of the Authority/Lost Property

21.1 Heads of Service will ensure that details of any lost property is recorded before removal, that two Officers certify the accuracy of the record, and that items are held securely until disposal.

21.2 Heads of Service will obtain proof of ownership prior to the release of property.

21.3 Heads of Service will agree how to dispose of unclaimed items with the Head of the Internal Audit Partnership.

22. Reports with Financial Implications

22.1 The Corporate Director (Finance and Economy) shall be responsible for advising the **Cabinet** and Council Committees on the financial implications of reports presented to them.

22.2 Report authors shall seek input from the Corporate Director (Finance and Economy) and IT when preparing reports that have any financial implications.

23. Retention of Financial Records

- 23.1 The Corporate Director (Finance and Economy) and Exchequer Manager will retain records which substantiate the Council's Statement of Accounts, Value Added Tax returns, Construction Industry Tax returns and Government Grant claims for the relevant statutory periods.
- 23.2 The Council has received dispensation from HM Revenues and Customs to hold scan images in lieu of hard copy documents.
- 23.3 Heads of Service will retain records which substantiate grant claims made by them and any evidence required in connection with likely future claims which may be made by or against the Council.

24. Salaries, Wages and Members' Allowances

- 24.1 The Head of HR and Customer Services shall be responsible for paying salaries, wages and other emoluments to Council employees; for making deductions for income tax, national insurance and superannuation and paying these to the relevant authorities and for maintaining the necessary records.
- 24.2 The process for submitting Timesheets and expenses claims is detailed in the conditions of service.
- 24.3 Heads of Service will notify the Head of HR and Customer Services immediately of all appointments, resignations, or other events affecting terms of employment or pay, including all sick absences, honorariums, accidents on or off duty, or special leave without pay.
- 24.4 Heads of Service will consult the Head of HR and Customer Services on the appropriate pay level for new or changed posts.
- 24.5 The Head of HR and Customer Services will make payments to any Member entitled to claim allowances in accordance with the Council's scheme for allowances.

25. Security

General

- 25.1 Heads of Service are responsible for the security of buildings, stocks, the Head of the Internal Audit Partnership will be consulted where security may be failing or where special security arrangements may be needed.
- 25.2 Maximum limits for cash holding will be agreed with the Head of the Internal Audit Partnership and not exceeded without his permission.

- 25.3 Keys to safes, cash boxes, strong rooms and security systems will be held by those responsible at all times. The loss of any such keys must be reported to the appropriate Head of Service immediately.

Data Protection and Information Security

- 25.4 Heads of Service are responsible for the security and privacy of information held within their services and for ensuring compliance with Data Protection, Copyright and Computer Misuse Acts. The Council's Information Security Policy, the Internet Acceptable Use Policy and Email Acceptable Use Policy are available on the Council's Intranet.

26. Sponsorship

- 26.1 Where an outside organisation wishes to sponsor or is asked to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.
- 26.2 Offers of Sponsorship must be discussed with the Corporate Director (Finance and Economy) to ensure that the correct record keeping processes and consideration is given for the proper accounting, tax and banking arrangements for any arrangements.

27. Stock, Stores and Controlled Stationery

Accounting arrangements

- 27.1 Heads of Service shall be responsible for the secure custody of any stock, stores and controlled stationery held within their services and for the recording, issuing and accounting arrangements.
- 27.2 Stocktaking should take place at the end of each Financial Year and at other times if the Head of Service or Internal Audit deems it appropriate. The Head of Service or duly Authorised Officer involved will ensure that the stocktake is undertaken by sufficient senior and other impartial Officers to secure an independent and reliable result. A signed stock certificate as at the 31st March each year will be provided to the Corporate Director (Finance and Economy) in accordance with the agreed Closure Timetable issued.
- 27.3 Volumes of stock, stores and controlled stationery held will not exceed reasonable requirements and will be reviewed periodically by each Head of Service or duly Authorised Officer concerned.
- 27.4 The term 'controlled stationery' includes documents which have a financial value such as tickets, vouchers, permits and documents which can be used to obtain cash, goods or services such as cheques, Official Orders, etc.

Inventories

- 27.5 Heads of Service shall be responsible for the safe custody of property used within their services. All property (other than land and buildings) shall be, as far as practical, marked effectively as Council property and recorded on an inventory maintained by the Head of Service.
- 27.6 Council property may not be removed unless on Council business and with the agreement of the relevant Head of Service.
- 27.7 All items on the inventory will be checked annually by Services and any significant discrepancies reported to the Head of the Internal Audit Partnership.

Disposals

- 27.8 Subject to Standing Orders, Directors and Heads of Service may authorise the disposals of items of stores, furniture and equipment below a market value of £5,000 per item or category of items.
- 27.9 Disposal of more valuable items requires the consent of the Management Team.

28. Taxation

- 28.1 Tax issues are very complex and the penalties for incorrectly accounting for tax are severe. It is important for all Officers to be aware of their roles and responsibilities so if in doubt, Heads of Service should consult the Corporate Director (Finance and Economy), the Head of the Internal Audit Partnership or Head of HR and Customer Services for advice.
- 28.2 Any liability for costs including any penalties and interest charged for incorrect tax treatment will be passed on to services.
- 28.3 The council has access to external advisory services that should be used, in consultation with the Corporate Director (Finance and Economy), to advise on the tax implications of council activities.

Construction Industry Taxation Scheme

- 28.4 The Corporate Director (Finance and Economy) is responsible for maintaining all records, making all deductions and returns as required by HM Revenues and Customs under the Construction Industry Taxation Scheme.
- 28.5 Heads of Service are responsible for ensuring that tax liabilities and returns can be correctly completed by:

- 28.5.1 Ensuring that orders/contracts for works of a building maintenance or construction nature (as defined under the Construction Industry Scheme) are only placed with contractors who hold and have supplied a current and valid card or certificate entitling them to be paid for works of this type under this scheme; and
- 28.5.2 Correctly identifying the value of labour subject to tax on any invoice where a tax deduction is necessary.

Value Added Tax (VAT)

- 28.6 The Corporate Director (Finance and Economy) is responsible for maintaining all records, accounts and claims as directed by the Value Added Tax Act 1983 (as amended).
- 28.7 The Corporate Director (Finance and Economy) will take responsible steps to ensure that the payment documentation provided by all suppliers of goods, works or services conforms to the requirements of a proper VAT invoice.
- 28.8 Each Officer responsible for raising invoices on behalf of the Council will ensure within reason that the Council has complied with the relevant Value Added Tax legislation regarding the supply of its services.
- 28.9 For services where VAT supplies are classified as Exempt under VAT regulations, Officers will ensure that all activities are fully evaluated for VAT purposes and any tax implications are identified before any expenditure is committed or contractual arrangements made.
- 28.10 The Corporate Director (Finance and Economy) will prepare the VAT partial exemption calculation at least once a year.

Income Tax and National Insurance

- 28.11 Heads of Service are responsible for ensuring that liabilities to account for Income Tax and National Insurance can be correctly and accurately accounted for within the Council's Accounts in accordance with HM Revenues and Customs and Contributions Agency Regulations. This will include:
 - 28.11.1 Ensuring that all payments to staff (other than those for which a dispensation is held) are made via the Council's payroll system.
 - 28.11.2 Ensuring that any taxable benefits arising from payments made/ benefits in kind supplied to and on behalf of staff is notified to the Head of HR and Customer Services for inclusion on P11D and similar returns.

- 28.11.3 Ensuring that all persons employed by the Authority are added to the Council's payroll.
- 28.11.4 Confirming that suppliers of labour other than employees (e.g. consultants) are not liable to deduction of Income Tax and National Insurance as if they were an employee, i.e. by obtaining evidence of Schedule D employment or CIS status.

29. Travelling and Subsistence

- 29.1 The processes for these items are contained within the Council's Conditions of Service
- 29.2 Summary details may be covered by the Council's disclosures on transparency.

30. Treasury Management

- 30.1 This Council has adopted CIPFA's Code for Treasury Management in Local Authorities.
- 30.2 The code requires that the Council shall determine a Treasury Management Policy setting out its strategy and procedures for Treasury Management and set the Council's Prudential Indicators. The policy shall be reviewed once a year and adopted by full Council.
- 30.3 All money in the Council's possession shall be aggregated for Treasury Management purposes under the overall control of the Head of Finance and IT and delegated to the Accountant responsible for Treasury Management on a day to day basis.
- 30.4 Day to day decisions on borrowing, investment (including the review of the list of the Council's current short and long term investment counterparties, with particular reference to their credit rating) and financing, including use of Capital Receipts, Reserves and Leasing are delegated from the Council to the Corporate Director (Finance and Economy) (or through him to his Officers) within the agreed Treasury Management Policy.
- 30.5 The Corporate Director (Finance and Economy) will make all investment of Council's funds in the name of the Council, unless the Council has authorised its investments to be made by an outside agent, when they should be in the name of Trustees for the Council. All investments will be in accordance with the statutory framework and the approved Treasury Management Policy.
- 30.6 All loans to the Council will be negotiated the by the Corporate Director (Finance and Economy) on and paid direct by the lender or his agent into the Council's bank account.

- 30.7 The Corporate Director (Finance and Economy) is authorised to borrow temporarily pending receipts of money from Business Rates, Loans, Council Tax, Government Grants and other income properly due to the Council, within the limit agreed by the Council each year. This is delegated on a day to day basis to the Accountant responsible for Treasury Management.
- 30.8 The Corporate Director (Finance and Economy) will keep under review the borrowing limit and will advise the Council accordingly.
- 30.9 The Corporate Director (Finance and Economy) will report to the **Cabinet** not less than once each financial year on the activities of the Treasury Management operation, and on the exercise of Treasury Management powers delegated to them.

31. **Write-Offs of Income, Stocks, Furniture and Equipment**

- 31.1 The Corporate Director (Finance and Economy), following consultation with the relevant Head of Service, may write off amounts which he is satisfied cannot be collected provided that they do not total more than £1,000 for any one debtor. A summary of the amounts written off shall be periodically reported to the **Cabinet**.
- 31.2 The Head of Housing may write off amounts owed by former tenants of Housing Revenue Account Properties provided that the procedures approved by the Council have been followed and the Corporate Director (Finance and Economy) has approved the list. A summary of the amounts written off shall be periodically reported to the **Cabinet**.
- 31.3 Amounts due to the Council (other than former HRA tenants' debtors and amounts below £1,000) shall require the approval of the Head of Housing and the **Cabinet** (in relation to **executive functions**) or the relevant Council **Committee** (in relation to **non-executive functions**) prior to be written off.
- 31.4 The Head of Community Safety and Wellbeing or Officers authorised by them may waive Penalty Charge Notices issued to motorists in the Council's car parks or in designated on-street parking areas and may waive Parking Offence Notices issued to motorists parking in restricted areas, where an acceptable reason for non-payment is supplied.

Appendix 1

GlossaryAccrual	A sum included in the final accounts to cover income or expenditure attributable to that year but for which payment was not received/made during that year.
Agency Services	Services which are performed for another authority or public body, where the principal (the authority responsible for the service) reimburses the agent (the authority doing the work) for the cost of the work carried out.
Appointed Auditors	External auditors of local authorities appointed by the Audit Commission. In Ashford's case, this function is carried out by the Commission's own audit staff.
Audit Commission	An independent body, established under the Local Government Finance Act 1982. The Audit Commission is responsible for appointing external auditors to Local Authorities and setting standards for those auditors, carrying out national studies to promote economy, efficiency and effectiveness in the provision of Local Authority services and defining comparative indicators of Local Authority performance that are published annually.
Budget	A statement of the Authority's plans for revenue and capital expenditure and income over a specified period of time.
Budget Head	A specific area of activity where expenditure may be incurred or income collected.
Budget Requirement	The estimated Revenue expenditure on General Fund services that needs to be financed from the Council Tax after deducting income from Fees and Charges, certain specific grants and any Funding Reserves.
Capital Expenditure	Spending on the acquisition, construction, enhancement or replacement of tangible assets (such as land, buildings or major items of equipment), which will be used or benefit providing services for a number of years.
Capital Financing	Funds used to pay for capital expenditure.
Capital Receipts	The proceeds from the disposal of land or other assets. Capital Receipts can be used to finance new Capital Expenditure within the rules set down by the Government, but they cannot be used to finance Revenue Expenditure.
CIPFA	The Chartered Institute of Public Finance and Accountancy is the leading professional accountancy body for public services in the UK. CIPFA has responsibility for setting good practice accounting standards for local government.
Collection Fund	A statutory fund maintained by a billing authority, which is used to record local taxes and non-domestic rates collected by the authority, along with payments to precepting authorities, the national pool of non-domestic rates and its own general fund.
Contingent Liability	A potential liability at the Balance Sheet date. If the liability cannot be estimated reasonably accurately, it must be disclosed as a note to the accounts.

Council Tax	The main source of local taxation to local authorities, Council Tax is levied on all domestic households within the Council's area.
Council Tax Benefit	Assistance provided to adults on low incomes to help them pay their Council Tax bill. The cost of Council Tax benefit is wholly met by Government Grant.
Creditors	Money owed by the Council to others.
Debtors	Money owed to the Council by others.
Deferred Charges	Expenditure that does not result in the creation of a fixed asset but is classified as Capital Expenditure for Capital Control.
Fidelity Guarantee	Insurance against fraudulent losses.
General Fund	The main revenue fund of the authority. Day-to-day spending on services is met from the Fund. Spending on the provision of housing, however, must be charged to a separate Housing Revenue Account.
Government Grant	Sums paid by central Government towards either specific service or in aid of services generally.
Gross Expenditure	The total cost of providing the Council's services before taking into account income from Government grants and Fees and Charges for services.
Housing Benefit	The allowance to persons on low income (or none) to meet, in whole or part, their rent. Benefit paid to the authority's own tenant is known as rent rebate and that paid to private sector tenants as rent allowance .
Housing Revenue Account (HRA)	Account which sets out the expenditure and income arising from the provision of housing. The HRA is funded by specific housing grants and rents payable by the Council's tenants.
HRA Subsidy	A Government grant paid to some housing authorities towards the cost of providing, managing and maintaining dwellings and paying Housing Benefit to tenants.
Internal Audit	A specialist section of the Council that examines, evaluates and reports on the adequacy of internal control systems and the proper, economic, efficient and effective use of resources.
National Non-Domestic Rate (NNDR)	A levy on businesses, based on a national rate in the pound set by the Government multiplied by the 'rateable value' of the premises they occupy. NNDR is collected by billing authorities on behalf of Central Government and then redistributed among all Local Authorities and Police Authorities on the basis of population.
Net Expenditure	Gross expenditure minus specific service income, (but before deduction of Revenue Support Grant).
Outturn	Actual income and expenditure in a Financial Year

Pension Fund	An employees' pension fund maintained by an authority, or group of authorities, in order to make pension payments on retirement of participants. It is financed from contributions from the employing authority, the employee and investment income. Ashford participates in a pension fund that covers all Kent authorities.
Precept	The levy made by precepting authorities on billing authorities, requiring the latter to collect income from Council Taxpayers on their behalf. County Councils, Police Authorities, Fire & Rescue Authorities and Parish Councils are precepting authorities.
Private Finance Initiative (PFI)	A Central Government initiative which aims to increase the levels of funding available for public services by attracting private sources of finance. The PFI is supported by a number of incentives to encourage authorities' participation.
Provisions	Amounts set aside for specific liabilities or losses which are likely or certain to be incurred, but the amounts or the dates on which they will arise are uncertain. The value of the Provision must be the best estimate of the likely liability or loss.
Rateable Value	The annual assumed rental value of a commercial property, to which rate poundages are applied to arrive at the Non-Domestic Rate payable.
Reserves	Amounts set aside to meet general, rather than specific future expenditure. These include "Earmarked Reserves" (to be spent on specific services or functions) and "General Reserves" (or 'Balances') which every authority must maintain as a matter of prudence. Sums may be put into or taken from Reserves at the Council's discretion.
Revenue Contributions to Capital	The financing of Capital Expenditure directly from Revenue.
Revenue Expenditure	The day-to-day running costs of providing services.
Revenue Support Grant (RSG)	A grant paid by Central Government to aid Local Authority services in general, as opposed to specific grants, which may only be used for a specific purpose.
Section 137 Expenditure	Section 137 of the Local Government act 1972 (as amended) enables the Council to spend on services for which it has no specific powers, but which benefits some or all of the Authority's residents.
Specific Grants	Grants from Central Government which may only be used for a specific purpose.
Treasury Management	Management of the Council's Cash Balances on a daily basis, to obtain the best return while maintaining an acceptable level of risk.
Virement	The transfer of funds between budget heads.

Financial Procedure Rules

Section	Item	Value £
5.5	Payments requiring two authorised signatures	>£20,000
6	The limits for tendering in the EU: Supplies (Goods) and Services Works	Thresholds can be found in Contract Standing Orders Appendix A: Procurement Route
7.19	Virement: approvals Heads of Service Management Team with Cabinet Member consultation Cabinet	< £50,000 Between £50,000 and £100,000 >£100,000
19.2	Petty Cash limit on individual items	£30
27.8	Approval for disposal of stores, furniture and equipment Head of Service Management Team	< £5,000 > £5,000
31.1	Approval for Write offs: Corporate Director (Finance and Economy) Members	Up to £1,000 per individual debtor > £1,000

Budget Thresholds

Key Decision Thresholds are:

- a. £100,001 (or greater) for all Revenue Services.
- b. £100,000 (or greater) or 10% of net project costs, whichever is lower, for Capital Schemes.
- c. £100,000 for decisions relating to redundancy and other termination payments (excluding pension costs).

Flexibility to Deploy Reserves:

1. Management Team has the flexibility to deploy up to £100,000 of reserves in either exceptional and urgent cases where this might be justified or where an amount may be needed to deal with some other service issue including investment to achieve greater efficiency. In all cases where the flexibility is applied the Chief Executive must liaise with the **Leader**, the Cabinet **Member** for Finance and IT and the Deputy Chief Executive (as Chief Financial Officer) and be required to report any application of reserves to the Cabinet as part of the budget monitoring cycle.
2. There is a stated presumption that the use of this flexibility is for exceptional circumstances and not routinely applied, and in all cases the use of the delegation must be consistent with Business Plan priorities.

Budget and Policy Framework Procedure Rules

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 **Executive** to implement it.

2. Process for Developing the Framework

The process by which the Budget and Policy Framework shall be developed is:

- (a) In each year before a plan/strategy/budget needs to be adopted, the **Cabinet** will publish initial proposals for the Budget and Policy Framework, having first canvassed the views of local stakeholders as appropriate, in a manner suitable to the matter under consideration. Details of the Cabinet's consultation process shall be included in relation to each of these matters in the Schedule of Key Decisions and published at the Council's main offices and on its web site. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where the Overview and Scrutiny Committee has carried out a review of existing policy and has recommended to the Cabinet or Full Council that a policy be developed or adopted, then the outcome of that review or recommendations will be reported to the Cabinet and considered in the preparation of initial proposals.
- (b) The **Cabinet's** initial proposals shall be referred to the Overview and Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Proper Officer who will forward them to the chairman of the Overview and Scrutiny Committee. If there is no such chairman, a copy must be sent to every Member of that Committee. The Overview and Scrutiny Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Cabinet. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall have one month to respond to the initial proposals of the Cabinet, unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.

- (c) Having considered the report of the Overview and Scrutiny Committee, the **Cabinet** if it considers it appropriate, may amend its proposals before submitting them to the Council Meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- (d) The Council will consider the proposals of the **Cabinet**) and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committee.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the **Leader**. The Notice of Decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the Notice of Decision, unless the Leader objects to it in that period.
- (f) If the **Leader** objects to the decision of the Council, he shall give written notice to the Proper Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Proper Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) Five clear days' notice of the Council meeting will be given. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the Budget and Policy Framework, the Council will 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 paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

3. **Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (virement) the **Executive**, Officers, Area Committees and **executive Joint Arrangements** 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 the Full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the **Executive**, Officers, Area Committees or **executive Joint Arrangements** want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance (Section 151) Officer as to whether the decision they want to make would be contrary to or not wholly in accordance with the **budget and policy framework**. If the advice of either of those Officers is that the decision would not be in line with the existing **budget and 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**

- (a) The **Executive**, Officers, Area Committees or **executive Joint Arrangements** 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. The decision may only be taken, however, if:
 - (i) it is not practical to convene a quorate meeting of the Full Council; and
 - (ii) 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 Overview and Scrutiny Committee's 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.

- (b) 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. **In-Year Changes to Policy Framework**

The responsibility for agreeing the **Budget and Policy Framework** lies with the Full Council, and decisions by the **Cabinet**, Officers, Area Committees or **executive Joint Arrangements** must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) Necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (c) In relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

6. **Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that an **Executive** decision is, or if made would be, contrary to the **Policy Framework**, or contrary to or not wholly in accordance with the Council's **Budget**, then it shall seek advice from the Monitoring Officer and/or Chief Finance (Section 151) Officer.
- (b) In respect of **executive functions**, the Monitoring Officer's report and/or Chief Finance (Section 151) Officer's report 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 Monitoring Officer's report and to prepare a report to: -
 - (i) The Council in the event that the Monitoring Officer or the Chief Finance (Section 151) Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure.
 - (ii) The Overview and Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 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. Five clear days' notice of the Council meeting will be given of 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 Monitoring Officer and/or the Section 151 Officer. The Council may either:
- (i) Endorse the proposed **executive decision** 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;
 - (ii) Amend the Council's Financial Regulations or policy 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;
 - (iii) 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 body or person who took the **executive decision** to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Section 151 Officer.

Executive Procedure Rules

These Procedure Rules apply to all decision-making by the **Executive**. The 'Executive' is the collective term for the **Leader** of the Council, the **Cabinet**, individual **Cabinet Members** and Committees of the Cabinet. The Executive is the part of the Council which is responsible for most day-to-day decisions, including **key decisions**.

The Executive's functions are further described at Article 7 in **Part 2** and in **Part 3** of this Constitution.

How Does The Cabinet (Executive) Operate?

1.1 Who May Make Executive Decisions?

Under the arrangements approved by the Leader, the **Cabinet** will ordinarily carry out all of the **executive functions** unless the **Leader** decides to discharge them personally or allocate them to:

- (a) an individual **Cabinet Member**;
- (b) a Committee of the Cabinet ;
- (c) an Officer;
- (d) an Area Committee; or
- (e) under **executive Joint Arrangements**.

The Leader may make such a determination, and give written notice of the same, at any time in accordance with these Executive Procedure Rules.

All **key decisions** will be published in advance in the Schedule of Key Decisions in so far as they can be anticipated, in accordance with the Access to Information Procedure Rules.

1.2 Appointments and Delegation by the Leader

At the Annual Meeting of the Council, the **Leader** will present to the Council the names of the Councillors appointed to the **Cabinet** by the Leader (including the **Cabinet Member** who is appointed as the Deputy Leader) and their portfolios, together with a written record of delegations made by him for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about **executive functions** in relation to the coming year:

- (a) the extent of authority of the Cabinet as a whole;

- (b) the remits of the portfolios of **Cabinet Members** and the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and constitution of such Cabinet Committees as the **Leader** appoints and the names of Cabinet Members appointed to them;
- (d) the nature and extent of any delegation of **executive functions** to Area Committees, or any **executive Joint Arrangements** and the names of those Cabinet Members appointed to any **Joint Committee** for the coming year; and
- (e) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

1.3 **Sub-delegation of Executive Functions**

Unless the **Leader** directs otherwise:

- (a) The Cabinet may delegate further to a Committee of the Cabinet, to an Officer of the Council or to an Area Committee.
- (b) A **Cabinet Member** may delegate further to an Officer of the Council or to an Area Committee.
- (c) A Committee of the Cabinet may delegate further to an Officer of the Council or to an Area Committee.
- (d) An Area Committee may delegate further to an Officer of the Council.

Where the **Leader** does so direct, the Leader must give written notice of the change in accordance with Rule 1.4 below to the Monitoring Officer, the Member Services Manager and to the person, body or Committee concerned. Notice will be deemed to be served on a Committee when he has served it on its Chair or Vice-Chair.

Even where **executive functions** have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 **The Scheme of Delegation relating to Executive Functions**

The **Leader** may amend the Scheme of Delegation relating to **executive functions** at any time during the year in accordance with the procedure set out below:

- (a) Where the **Leader** wishes to delegate the discharge of an **executive function** that has not been previously delegated, the Leader must give written notice of the new delegation to the Monitoring Officer, the Member Services Manager and to the person, body or Committee concerned. The notice must set out the extent of the delegation.

The delegation of the **executive function** will take effect on receipt of the Leader's written notice by each of the parties listed above.

- (b) Where the **Leader** wishes to transfer the discharge of an **executive function** that has been previously delegated, the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the Monitoring Officer and member Services Manager. The notice must set out the extent of the delegation.

The transfer of the delegation of the **executive function** will take effect on receipt of the **Leader's** written notice by each of the parties listed above.

- (c) Where the **Leader** wishes to withdraw the delegation of an **executive function** that has been delegated and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the Monitoring Officer and Member Services Manager.

The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

- (d) Where the **Leader** seeks to withdraw delegation from a **Committee**, notice will be deemed to be served on that Committee when he has served it on its Chair or Vice-Chair.

1.5 **Conflicts of Interest and Effect of Disclosable Pecuniary Interests on Participation**

Conflicts

- (a) Where the **Leader** has an interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has an interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

- (c) If the exercise of an **executive function** has been delegated to a Committee of the **Cabinet**, an individual **Cabinet Member** or an Officer, and an 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.

Disclosable Pecuniary Interests

Where the **Leader** or any **Cabinet Member** has a disclosable pecuniary interest as set out in the Code of Conduct for Members at Part 5 in any business of the **Executive**:

- (a) he/she must withdraw from the room or chamber where a meeting considering the business is being held:
- i) in a case where sub-paragraph (ii) applies, immediately after making representations, answering questions or giving evidence;
 - ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless he/she has obtained a dispensation;
- (b) he/she must not exercise functions in relation to that business; and
- (c) he/she must not seek improperly to influence a decision about that business.
- (d) Where the **Leader** or any **Cabinet Member** has a disclosable pecuniary interest in any business of the **Executive** he/she may attend a meeting (including a meeting of the Overview and Scrutiny Committee or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

1.6 Key Decisions and Urgency

- 1.6.1 **Key decisions** may only be taken by the **Leader**, the **Cabinet**, a committee of the Cabinet, an individual **Cabinet Member** or the **Chief Executive** as described below.
- 1.6.2 **Key decisions** will ordinarily be taken by the **Cabinet**.
- 1.6.3 The **Leader** may take any **key decision** in place of, or between meetings of, the **Cabinet**, including decisions that have become urgent, in accordance with the Access to Information Procedure Rules at **Part 4** of this Constitution.

- 1.6.4 When a **key decision**, which would otherwise have been taken by the **Cabinet**, has become genuinely urgent and unavoidable, and:
- (i) it is not practicable to call a meeting of the Cabinet, and/or
 - (ii) the **Leader** is not available or not able to act for any reason,
- then the **Deputy Leader** shall be authorised to take the decision or to allocate the decision the **Cabinet Member** having the relevant portfolio responsibilities, or to a Committee of the Cabinet.
- 1.6.5 If the **Deputy Leader** is not available, or not able to act for any reason, in the circumstances stated in 1.6.4, then the **Chief Executive** shall be authorised to take the decision.
- 1.6.6 The decision taker will comply with the “General Exception” and/or “Special Urgency” procedures as set out in the Access to Information Procedure Rules at Part 4 of this Constitution, as appropriate, before taking the decision. The decision taker will also:
- (i) consult with the relevant **Cabinet Member(s)**, so far as practicable, before taking the decision, and
 - (ii) inform the **Leader** as soon as possible after the decision is taken, and
 - (iii) report the decision to the next **Cabinet** meeting.
- 1.6.7 In the event that no Cabinet Members remain in office then all functions of the **Leader** and **Cabinet** shall be exercised by the **Chief Executive** acting so far as is practicable in consultation with the Mayor, or Deputy Mayor if the Mayor of the Council is unable to act, until such time as a new **Leader** is elected by the Full Council, as provided for in this Constitution.

1.7 **Cabinet Meetings**

The **Cabinet** shall determine its own calendar of meetings. Meetings are currently held monthly on a Thursday during the evening. The Cabinet shall meet at the Council’s main offices or another location to be agreed by the **Leader**.

Meetings of the **Cabinet** will be held in public, subject to the consideration of exempt or confidential information as provided for in the Access to Information Rules in Part 4 of this Constitution.

1.8 **Quorum**

The quorum for a meeting of the **Cabinet** shall be one quarter of the total number of Members of the Cabinet (including the Leader), or 3 including the Leader, whichever is the larger.

For a Committee of the Cabinet the quorum shall be 3.

1.9 **How are Decisions to be Taken by the Executive?**

All **executive decisions** will be taken in accordance with the Principles of Decision-Making set out in Article 13 and the provisions of the Access to Information Procedure Rules in **Part 4** of the Constitution

1.10 **Record of decision-making by the Executive**

The Council supports transparency of decision-making in the public interest. When **executive decisions** are taken, the written decision record and/or minutes must be produced which will include the following information:

- (i) who took the decision (the person or body);
- (ii) the details of the decision including the date it was made;
- (iii) the reasons for the decision;
- (iv) a summary of any alternative options considered and rejected by the officer, **Cabinet Member**, **Cabinet** or Cabinet Committee when the decision was made;
- (iv) details of any conflict of interest relating to the matter declared by any **Cabinet Member** of the decision-making body or by a Cabinet Member who is consulted by the Officer or Cabinet Member who made the decision; and
- (vi) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer or Standards Committee.

Decision Making by the Leader and Cabinet Members:-

- 1.11 All decisions taken by the **Leader** or individual **Cabinet Members** shall be recorded and publicised in accordance with the Access to Information Procedure Rules.

The procedure for "**Call-In**" is set out in the Overview and Scrutiny Procedure Rules in this **Part 4**.

1.12 **Procedure for Taking Leader or individual Cabinet Member Decisions**

Decisions must be made in accordance with Article 13 and following consultation with the appropriate Director or Head of Service and the following statutory officers:

- (a) Chief Executive
- (b) Monitoring Officer
- (c) Chief Finance Officer

The **Leader/Cabinet Member** must take into account professional, legal and financial advice and implications.

If any of the above Officers give advice that a decision would fall outside the powers of the Cabinet Member, the Cabinet Member shall refer the matter to the **Leader** or the Cabinet.

Where it is not clear in which portfolio an issue sits, the **Leader** will decide.

Where **executive functions** have been delegated, that does not prevent the discharge of those functions instead by the person or body who delegated them.

Decisions by the **Leader/Cabinet Member** must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.

Key decisions must follow the statutory requirements in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as provided for in the Access to Information Procedure Rules in this **Part 4**.

Committees of the Cabinet

- 1.13 The **Leader** or the **Cabinet** may delegate any of its functions to a Committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Leader or the Cabinet may establish decision-making Committees which may only include **Cabinet Members**. The Leader or the Cabinet may establish advisory committees, the membership of which need not be limited to Cabinet Members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

Committees established by the **Leader** or the **Cabinet** shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative committees will continue in operation only until the first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or they cease to exist.

All functions that have been delegated to a Committee established by the **Leader** or the **Cabinet** can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Cabinet Member or an alternative Committee of the Cabinet.

The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to Full Council in due course for noting in the Council's Constitution.

How are the Cabinet Meetings Conducted?

2.1 Who Presides?

If the **Leader** is present he will preside. In his absence the Deputy Leader will preside. The Deputy Leader is appointed to this position by the Leader. In the absence of both of them a person appointed to do so by those present shall preside. (Minute No 324/12/10)

2.2 Who May Attend?

Attendance at meetings of the **Cabinet** is dealt with in the Access to Information Rules in Part 4 of this Constitution.

The Chief Executive, the Chief Finance Officer (Section 151) and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet where a decision is to be made.

2.3 What Business?

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

- (a) Consideration of the Minutes of the last meeting;
- (b) Declarations of interest, if any;

- (c) 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 Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) Consideration of reports from the Overview and Scrutiny Committee; and
- (e) Matters set out in the agenda for the meeting, (which shall indicate which decisions are key and which are not) in accordance with the Access to Information 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 must contain details of the nature and extent of 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?

The **Leader** will decide upon the schedule for the meetings of the Cabinet. He may put on the agenda of any Cabinet meeting any matter which he 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.

Any Member of the Cabinet may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he receives such a request the Proper Officer shall comply.

The Proper Officer will ensure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee, or the full Council have resolved that an item be considered by the Cabinet.

Any Member of the Council may request the **Leader** to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Member who requested the item will be invited to attend the meeting whether or not it is a public meeting.

The Monitoring Officer and/or the Chief Finance Officer (Section 151) 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 (Section 151) 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.

2.6 **Petitions**

The **Cabinet** will from time to time receive petitions referred by the Council or petitions presented in person at meetings of the Cabinet subject to the Council's Scheme of Public Participation as contained as an Appendix to The Access to Information Procedure Rules in Part 4 of this Constitution.

2.7 **Committees of the Cabinet**

Save for 2.6 above, in so far as relevant Cabinet Committee meetings will follow the above procedures.

Appendix 1

Key Decision Thresholds

Key decision thresholds are currently £100,001 (or greater) for all Revenue Services, and £100,000 (or greater) or 10% of net Project Costs, whichever is lower, for Capital Schemes. These are subject to any revision by the Council when approving the Budget.

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Overview and Scrutiny Procedure Rules

1. Introduction

- 1.1 The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them, as it considers appropriate from time to time. Such Committees may appoint Sub-Committees and Task Groups (Minute No. 568/5/04, 54/6/04 and 602/5/08). Overview and Scrutiny Task Groups and Sub-Committees may be appointed for a fixed period, to examine particular topics.
- 1.2 The number of Members of each Overview and Scrutiny Committee will be set out in the terms of reference as contained in Part 3 of this Constitution. Overview and Scrutiny Committees and Sub-Committees may appoint co-optees.
- 1.3 Task Groups will aim to be politically balanced and comprise between four and seven Members from the Overview and Scrutiny Committee, selected on the basis of their expertise in a particular area. The Task Groups will be established for a specific purpose and will be disbanded once the task has been completed. There is a presumption that the Task Groups are 'closed meetings' as they are likely to be discussing subjects that would not be open to the press and public if being discussed in a Committee (exempt).

2. Membership, Quorum and Chairing

- 2.1 All Councillors except Members of the **Cabinet** may be Members of an Overview and Scrutiny Committee. No Member may, however, be involved in scrutinising a decision in which they have been directly involved.

Co-optees

- 2.2 The Overview and Scrutiny Committee will be entitled to appoint people who are not Elected Members as co-opted advisers.

Meetings of the Overview and Scrutiny Committees

- 2.3 The Overview and Scrutiny Committee will hold at least six ordinary meetings in each year and shall carry out its function as the Crime and Disorder Committee at no less than one meeting in every 12 month period. In addition, extraordinary meetings may be called:-
 - (a) by the Chair and 2 Members of the Overview and Scrutiny Committee or
 - (b) by a minimum of 5 Members of the Overview and Scrutiny Committee.
- 2.4 The Proper Officer may also call a meeting of an Overview and Scrutiny Committee if they consider it necessary or appropriate.

Quorum

- 2.5 The quorum for an Overview and Scrutiny Committee shall be as set out in the Terms of Reference of the individual Committees and Sub-Committees as appended to the General Procedure Rules in Part 4 of this Constitution.

Who Chairs Overview and Scrutiny Committee Meetings?

- 2.6 The Chair and Vice Chair of the Overview and Scrutiny Committee shall be appointed by the Full Council at its Annual Meeting as detailed in the General Procedure Rules.

3. Work Programme

- 3.1 The Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account the wishes of all Members on the Committee.

4. Agenda Items

- 4.1 Any Member of an Overview and Scrutiny Committee is entitled to give notice to the Chair of an agenda item falling within the terms or reference of the Committee. The Chair will then liaise with the Proper Officer to decide how best to take the agenda item forward, including considering it for inclusion on the next available agenda. All such items proposed will be recorded during the Committee discussion on its work programme. If the Committee decided not to take the proposed agenda item forward, it will notify the Member that proposed it of: -

- (a) Its decision, and
- (b) The reasons for it.

This will be captured in the minutes of the meeting.

- 4.2 Section 119 of the Local Government and Public Involvement in Health Act 2007 provides Members with the opportunity to ask for discussions at the Overview and Scrutiny Committee on issues where local problems have arisen and where other methods of resolution have been exhausted. This exceptional process is "A Councillor Call for Action" and is described in detail in Appendix A.

5. Policy Review and Development

- 5.1 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 in Part 4 of this Constitution.

- 5.2 The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. 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.
- 5.3 Any reports or findings of the Overview and Scrutiny Committee can be proposed to the Cabinet or Council and other organisations specified in its terms of reference.

6. Reports from the Overview and Scrutiny Committee

- 6.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer 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).
- 6.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or **Cabinet** as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 6.3 The Council or **Cabinet** shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to the Proper Officer.

7. Cabinet Consideration of Overview and Scrutiny Committee Reports

- 7.1 The references from the Overview and Scrutiny Committee will be considered at the next available Cabinet meeting and subject to compliance with the Access to Information rules and legislation, unless otherwise agreed by the Chair. The Cabinet's responses to reports submitted will normally be reported to the next available meeting of the relevant Overview and Scrutiny Committee.
- 7.2 If the Proper Officer refers the matter to Council, they will also serve a copy to the Leader and any Portfolio Holder whose Portfolio may be affected. The Proper Officer is also to consider whether the report should be considered by the Cabinet before it is taken to Full Council e.g. because it impacts on the Budget and Policy Framework and may put the report on the Cabinet agenda for that purpose. Subject to this, and to compliance with the Access to Information rules and legislation, the item will be placed on the next available Council agenda. When Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact the Budget

and Policy Framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Committee's proposals.

- 7.3 Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the **Cabinet** in relation to a matter where the **Leader** or Council has delegated decision making power to another **Cabinet Member**, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then they must refer the matter to the next available meeting of the Cabinet for debate before exercising their decision making power and responding to the report in writing to the Overview and Scrutiny Committee within four weeks. A copy of his written response to it shall be sent to the Proper Officer and the Cabinet Member will attend a future meeting of the Overview and Scrutiny Committee to respond.
- 7.4 The Overview and Scrutiny Committee will in any event have access to the **Cabinet's** Schedule of Key Decisions and timetable for decisions and intentions for consultation. This enables the Committee to respond in the course of the Cabinet's consultation process in relation to any key decision.

8. **Rights of Overview and Scrutiny Committee Members to Documents**

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

9. **Members and Officers Giving Account**

- 9.1 Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the **Cabinet**, the Head of Paid Service, Head of Service or other members of staff on Ashford Management Grade 8 or above to attend before it to explain in relation to matters within their remit.
- (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

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

9.2 Where any Member or Officer is required to attend an 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 at least five working days' notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which he 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.

9.3 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, to take place within a maximum of twenty one days from the date of the original request.

NB: Council employees below Management Grade 8, may be invited to attend but may not be required to attend.

10. Attendance by Others

10.1 An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 9 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. Attendance is entirely optional.

11. Call-In

11.1 When a decision is made by the **Executive**, or a **key decision** is made by an Officer, an Area Committee, or under **executive Joint Arrangements**, the decision shall be published and shall be available at the main offices of the Council in hard copy and on the website normally within 3 working days of being made.

11.2 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 five working days after the publication of the decision, unless within this time it is called in for scrutiny ("the **call-in** period").

11.3 During that period, the Proper Officer shall **call-in** a decision for scrutiny by the Overview and Scrutiny Committee if so requested by: -

- (i) the Chairman of that Committee and two other Members or
- (ii) any five Members of the Overview and Scrutiny Committee,

and shall then notify the decision-taker of the call-in. He shall call a meeting of the appropriate Overview and Scrutiny Committee on such date as he may determine, where possible after consultation with the Chair of that Committee, and in any case within 5 days of the decision to call-in. Five clear working days' notice of the meeting must be given.

- 11.4 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 refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision (which shall not be subject to **call-in**).
- 11.5 If following an objection to 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 Overview and Scrutiny meeting or at the expiry of that further five working day period from the decision to call in the matter.
- 11.6 If the matter is referred to Full Council 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. If the Council does object, however, it has no locus to make decisions in respect of an **executive 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 body or person 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 of the Cabinet or the Cabinet Committee may be convened to reconsider the original decision within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.
- 11.7 If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, 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.
- 11.8 Where an **executive decision** has been taken by an Area Committee, then the right of **call-in** shall extend to a group of at least half the total number of voting Members of another Area Committee if they are of the opinion that the decision, made but not implemented, will have an adverse effect on the area to which their Committee relates. In such cases, those Members may request the Proper Officer to call-in the decision. They shall call a meeting of the Overview and Scrutiny Committee where possible after consultation with the Chair of the Committee, and in any case within five days of the decision to call-in. All other provisions relating to call-in shall apply as if the call-in had been exercised by Members of the Overview and Scrutiny Committee.

12. Exceptions

- 12.1 The Council has not adopted a procedure to avoid abuse of the ‘**call-in** system’ but will monitor its operation with a view to adopting a control procedure if the call-in provision is abused to the extent that it prevents the effective operation of the **Executive**.
- 12.2 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 interest.

13. The Party Whip

The Party Whip is defined as follows:

“Any instruction given by or on behalf of a political group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should s/he speak or vote in any particular manner”.

When considering any matter in respect of which a Member of an 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.

14. Procedure at Overview and Scrutiny Committee Meetings

- 14.1 Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
- (i) Minutes of the last meeting;
 - (ii) Declarations of Interest (including whipping declarations);
 - (iii) Consideration of any matter referred to the Committee for a decision in relation to **call-in** of a decision;
 - (iv) Responses of the **Cabinet** to reports of the Overview and Scrutiny Committee; and
 - (v) The business otherwise set out on the agenda for the meeting.

Appendix A(i)

Councillor Call for Action Protocol (can be found here

<https://ashford.moderngov.co.uk/documents/s27001/Councillor%20Call%20for%20Action%20CCfA.pdf>

Contract Standing Orders (can be found here -

<https://ashford.moderngov.co.uk/documents/s27002/Contract%20Standing%20Orders%202024.pdf>

Officer Employment Procedure Rules

1. Recruitment and Appointment

(a) Declarations

- (i) A candidate for any Council appointment will, when making application, inform the duly authorised Officer of any relation they know to be a Member or Senior Officer of the Council. A candidate who knowingly fails to disclose a relationship will be disqualified for the appointment and if appointed be liable to dismissal without notice.

Every Member or Senior Officer of the Council will inform the Chief Executive of any relationship known to him with any person he knows is a candidate for an appointment. The Chief Executive will report any such disclosure to the Council or appropriate Members or Officers making the appointment.

- (ii) This rule will be included in any form of application.
- (iii) For the purpose of this rule only “Senior Officer” means any Council Officer designated Management Grade 3 or above. Persons will be deemed to be related if they are – husband, wife, partner, parent, grandparent, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a Member/candidate.

(b) Seeking support for Appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment within the Council. Every advertisement inviting applications and application forms will include a note to this effect.
- (ii) No Councillor will seek support for any person for any appointment with the Council or give a written testimonial of a candidate’s ability, experience or character for an applicant for an appointment with the Council of which he is a Member.

2. Recruitment of Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 15), Directors and Service Managers

Where the Council proposes to appoint a Head of Service, Monitoring Officer or Chief Finance Officer (Section 151) and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) Draw up a statement specifying:
 - (i) The duties of the Officer concerned; and
 - (ii) Any qualifications or qualities to be sought in the person to be appointed;
- (b) 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
- (c) Make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service or Monitoring Officer or Chief Finance Officer (Section 151)**

This process is subject to statutory Procedure Rules and Regulations.

- (a) The Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151) following the recommendation of such an appointment by the Appointments Committee of the Council. That Committee must include at least one Member of the **Cabinet**.
- (b) The Full Council may only make or approve the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151) where no well-founded objection has been made by any Member of the **Cabinet**.

4. **Appointment of Directors (Other than the Chief Executive)**

- (a) The Appointments Committee of the Council will appoint Directors and Head of Service. That Committee must include at least one Member of the **Cabinet**.
- (b) An offer of employment as a Director or Head of Service shall only be made where no well-founded objection from any Member of the **Cabinet** has been received.

5. **Other Appointments**

- (a) **Officers Below Head of Service.** Appointment of Officers below Head of Service is the responsibility of the Head of Paid Service or his nominee, and shall not be made by Councillors.

- (b) **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 Against Certain Postholders**

- (a) **Suspension.** The Head of Paid Service, a non-statutory Chief Officer within the meaning of Section 2 (7) of the Local Government Act 1989 i.e. (a) a person for whom the Head of Paid Service is directly responsible; (b) a person who in respect of all or most of the duties of his/her post, is required to report directly or is directly accountable to the Head of Paid Service; (c) any person who, in respect of all or most of the duties of his post, is required to report directly or is directly accountable to the Local Authority or any Committee or Sub-Committee of the Council, the Monitoring Officer and Chief Finance Officer (Section 151) may be suspended whilst an investigation takes place into alleged misconduct. The alleged misconduct will be dealt with in accordance with the Local Authorities (Standing Orders) 2001, as amended. Suspension will be on full pay and last no longer than two months.
- (b) Disciplinary Action against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151) is subject to the procedure note attached to the Terms of Reference of the Investigation and Disciplinary Committee.
- (c) Councillors will not be otherwise involved in the disciplinary action against any Officer below Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through 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. **Dismissal**

Councillors will not otherwise be involved in the dismissal of any Officer below Head of Service, 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 dismissals.