

Cheshire East Council

New Constitution

Part 3

Rules of Procedure

This part of the Constitution covers the following areas:-

Part	Title	Contents
A	Rules of Procedure	Set out the rules of procedure relating to meetings and decisions of the Council covering <ul style="list-style-type: none"> • Full Council Meetings • Committees and Sub Committee Meetings • Cabinet Meetings • General Provisions relating to Procedure Rules • Overview and Scrutiny Procedure Rules
B	Access to documents and information	Sets out the rights to access documents and information of the Council and the obligations to publish and make information available
C	Budget and Policy Framework Rules	Set out the rules providing the framework for managing the Council's financial affairs.
D	Finance Procedure Rules	Set out the rules relating to the financial operation of the Council.
E	Contract Rules	Set out the rules covering the way in which the Council contracts with other organisations.
F	Employment Rules	Set out the rules relating to the recruitment, appointment and dismissal of senior staff

Part A – Procedure Rules

Council Procedure Rules

1 Council meetings

- 1.1 The Council will decide when and where its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Council.
- 1.2 The Mayor, or the Council, can agree to hold a meeting at a different place or time.
- 1.3 A special meeting can be called by resolution of the Council or by the Mayor, or five members of the Council can ask the Mayor, in writing, to call a special meeting. If the Mayor does not agree, then those Members can call the meeting by giving written notice to the Monitoring Officer.
- 1.4 The Monitoring Officer, in consultation with the Mayor, may also call a special meeting, taking into consideration the subject matter of the request, its urgency and impact on the Council and its citizens.
- 1.5 Before the start and at the end of each meeting, Members and Officers will stand whilst the Mayor and the Deputy Mayor enter and leave the room.

2 Mayor and Deputy Mayor of the Council

- 2.1 At its annual Mayor-making meeting, the Council will elect its Mayor and appoint its Deputy Mayor for the following year.
- 2.2 The Mayor of the Council, or in his/her absence the Deputy Mayor (who will have the same powers and duties as the Mayor), will preside at meetings of the Council.

3 Quorum

- 3.1 No business shall be dealt with at a Council meeting if there are fewer than 21 Councillors present. Where the meeting has started, and the number of Councillors present is fewer than 21, the Mayor will adjourn the meeting. Where the Mayor does not give a date and/or time to re-convene, all business not completed will be considered at the next scheduled meeting.

4 What the Council can decide

- 4.1 The Council will decide such matters as required by the law, and those matters set out in Part 3 of this Constitution.

5 Council Agenda and Order of Business

- 5.1 The Council has adopted [model agendas](#) for Council meetings – these are for guidance only.
- 5.2 Business shall be dealt with in the order in which it is set out in the agenda unless the Council decides otherwise.

6 Urgent Business

- 6.1 Business cannot be dealt with at a Council meeting unless it is included in the Summons or unless the Mayor has agreed that it is urgent and cannot wait until the next meeting. The Mayor must give the reasons for urgency, which must be recorded in the Minutes of the meeting.

7 Confirmation of Minutes

- 7.1 Minutes of the last Council meeting must be confirmed at the next ordinary meeting of the Council where possible.
- 7.2 Only matters relating to the accuracy of the Minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Mayor shall sign the Minutes.

8 Matters for Decision by the Council

- 8.1 When the item is reached on the agenda, the appropriate Cabinet Member or the Chairman of the relevant Committee will, where appropriate, move the recommendation or advice of the Cabinet or Committee, or endorsement of a Cabinet or a Committee decision. Another Member may second the motion.
- 8.2 The Chairman cannot ask the Council to agree to withdraw a recommendation of the Cabinet or a Committee under, [Appendix 3, paragraph No.10](#), unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Council.

9 Motions Moved Without Notice

- 9.1 [Appendix 1](#) lists those motions and amendments which can be moved at a Council meeting without notice.

10 Speaking and Questions at Council meetings

- 10.1 A Member of the Council may ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.
- 10.2 A Member may ask the nominated/designated representative of the Cheshire Fire Authority or the Cheshire Police and Crime Panel any question about the responsibilities of his/her respective Authority.
- 10.3 There is no requirement for questions to be submitted in writing which relate to the work of the Cabinet. They can be asked at the meeting without notice.
- 10.4 For the Chairman of a Committee or the nominated/designated representative of the Cheshire Fire Authority or the Cheshire Police and Crime Panel questions must be sent in writing to the Monitoring Officer at least three clear working days before the meeting.
- 10.5 There will be a maximum question time period of 30 minutes.
- 10.6 Questions will be selected by the Mayor taking into account the time available.
- 10.7 Those Members submitting more than one question in writing may indicate the priority of importance of each question.
- 10.8 Questions in writing will not be read out at Council meetings.
- 10.9 All Questions will be brief, clear and focussed.
- 10.10 No questions will be allowed which, in the opinion of the Monitoring Officer are
 - inappropriate, frivolous, derogatory or vexatious;
 - relate to a Council employment or staffing matter or
 - could be defamatory.
- 10.11 No questions will be allowed which repeat, or are substantially the same as, questions submitted to a meeting of Council during the preceding 6 months.
- 10.12 Questions will be asked and answered without discussion. In replying, the Member responding will use their reasonable endeavours to address the matters raised in the question. The Member responding may decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer with a copy to such other Members of the Council as the Council agrees, or refer the question to an appropriate committee or to the Cabinet.
- 10.13 Following the answer to each question, the Mayor may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.

10.14 Where a question submitted under this Procedure Rule relates to a matter that appears on the agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter.

10.15 A public speaking time and public question facility will apply to Council meetings, as detailed in [Appendix 7](#).

11 Notices of Motion

11.1 A notice of motion must relate to matters for which the Council has responsibility or which affect its area.

11.2 The arrangements for submitting and dealing with notices of motion are set out in [Appendix 2](#).

12 Rules of Debate

12.1 The rules of debate to be followed at Council meetings are set out in [Appendix 3](#).

13 Rescission of Earlier Resolution

13.1 Subject to Rule 13.2, at a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding 6 months or which is to the same effect as one which has been rejected within that period.

13.2 Such a motion may be moved if:

1. it is recommended by the Cabinet or a Committee; or
2. notice of such motion has been given under Procedure Rule 12 and signed by at least 8 elected Members of the Council.

14 Voting

14.1 Voting will be by a show of hands.

14.2 When a Member asks for a recorded vote to be taken, and 8 other Members support the request, the vote will be recorded to show whether each Member voted for or against the motion or abstained.

14.3 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

14.4 Members must be in their designated seats for their vote to be counted. The Mayor may agree to waive this requirement before the vote is taken.

- 14.5 A Member may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 14.6 A Member may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.
- 14.7 Where there are equal votes cast for a motion or amendment the Mayor or the person presiding will have a second or casting vote.

15 Offices and Appointments

- 15.1 A vote will be held to elect or appoint the Mayor and Deputy Mayor of the Council, the Leader of the Council and Members to any office or position where more than one person is nominated.
- 15.2 If more than one person is 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 Election of Chairmen of Committees and Sub-Committees

- 16.1 The Chairmanships and vice-chairmanships of the Council's committees and sub-committees shall be allocated to the political groups each year at the Annual Meeting of Council. Nominations to chairmanships and vice-chairmanships shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Governance and Democratic Services and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council in relation to the body in question.
- 16.2 A Member appointed as Chairman or Vice-Chairman must be a member of the relevant Committee or Sub-Committee.
- 16.3 Where a vacancy occurs in the office of Chairman or Vice-Chairman, the relevant Group Leader or Whip shall nominate a replacement in accordance with the provisions of paragraph 16.1.
- 16.4 Where both the Chairman and Vice-Chairman are absent from a meeting of the relevant body, a Chairman will be appointed from those Members of the body present, provided the meeting is quorate and subject to any restrictions on the eligibility of Cabinet Members for appointment.
- 16.5 A description of the [Role and Responsibilities of a Chairman](#) of a meeting is available.

17 Urgent Decisions – Non-Executive Matters

- 17.1 An item of urgent business which has to be decided before the next meeting of the Council can be determined in accordance with the procedure set out in [Appendix 4](#).

Committee and Sub-Committee Procedure Rules

18 Committees and Sub-Committees

18.1 The standing Committees and Sub-Committees of the Council and their membership size are set out in [Part 2 \(D\) of the Constitution](#).

19 Co-option

19.1 A committee or sub-committee may co-opt any person as a Member.

19.2 An overview and scrutiny committee or sub-committee may co-opt persons to advise and/or assist in the scrutiny of particular areas of the Council's functions.

19.3 Co-optees must not be elected Members of the Council. Save as provided in paragraphs 3.1 and 3.2 of the Overview and Scrutiny Procedure Rules, co-optees shall not be entitled to vote at any meeting.

20 Appointment to Committees and Sub-Committees

20.1 Where a by-election takes place during the year, the Council will decide upon the composition of Committees and Sub-Committees to reflect any change in political balance.

21 Substitutions

21.1 A Political Group may appoint a substitute member to a committee or sub-committee in accordance with the procedure set out in Appendix 5.

22 Urgent Decisions – Non-Executive Matters

22.1 An item of urgent business which has to be decided before the next meeting of a Committee or Sub-Committee can be determined in accordance with the procedure set out in [Appendix 4](#).

23 Changes to the Calendar of Meetings

23.1 Meetings of Committees and Sub-Committees will be set out in the calendar of meetings approved by the Council. There will be a presumption against alterations to the date, time and venue for meetings.

23.2 A meeting of a decision-making body scheduled in the Calendar of Meetings may be cancelled or changed by the Chairman following consultation with the whole membership of the body provided that such

cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.

- 23.3 When it is necessary to arrange a special meeting, the Head of Governance and Democratic Services will consult the Chairman and Spokespersons of the relevant Committee or Sub-Committee before any action is taken. The Chairman of the Committee or Sub-Committee will then determine the matter.

24 Quorum at Committees and Sub-Committees

- 24.1 Business cannot be transacted at meetings of Committees and Sub-Committees unless there are at least one quarter of the Members of the body present. However, where the total membership of any Committee or Sub-Committee comprises eleven or fewer Members, the quorate number shall be 3.
- 24.2 These arrangements may be varied because of a legal requirement or by the Council.

25 Minutes of Committees and Sub-Committees

- 25.1 The Minutes of a Committee or Sub-Committee must be confirmed at its next meeting where possible.
- 25.2 Only matters relating to the accuracy of the Minutes can be raised. Where accuracy is questioned, this must be by a motion which is proposed, seconded and voted upon.
- 25.3 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chairman shall sign the Minutes.
- 25.4 The Minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chairman.
- 25.5 Members may ask a question or comment on any Minute. The Chairman of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.
- 25.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Monitoring Officer at least 24 hours before the start of the meeting.

26 Motions moved without Notice at Committees and Sub-Committees

26.1 [Appendix 1](#) lists those motions and amendments which can be moved without notice.

27 Rules of Debate at Committees and Sub-Committees

27.1 [Appendix 3](#) sets out the rules of debate.

28 Voting

28.1 Voting at Committee and Sub-Committee meetings will be by a show of hands.

28.2 When a Member asks for a recorded vote to be taken, and one other Member supports the request, the vote will be recorded to show whether each Member present voted for or against the motion or abstained.

28.3 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

28.4 A Member may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or that he/she abstained.

28.5 A Member may request that a lost motion or amendment be recorded in the minutes by requesting this immediately after the vote is taken.

28.6 Where there are equal votes cast for a motion or amendment, the person presiding at the meeting will be entitled to, and may exercise, a second or casting vote. However, where there remains an equality of votes in respect of a motion, the motion will be lost.

29 Offices and Appointments

29.1 A vote will be held to elect or appoint Members to any office or position where more than one person is nominated.

29.2 If more than one person is 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.

30 Mover of a Motion at Council under Procedure Rule 12: Attendance at Committee and Sub-Committee

30.1 Where a motion has been referred under Procedure Rule 12 from the Council to a Committee or Sub-Committee for consideration and report, the mover of the motion has the right to attend the meeting and to explain the motion.

30.2 The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and he/she will be sent a copy of the relevant papers.

31 Requests by Members for items of business to be included on agendas of a Committee or Sub-Committee

[Appendix 6](#) to these Procedure Rules sets out details of the process by which a Member of the Council can ask for an item of business to be included on the agenda of Committee or Sub-Committee meeting.

32 Questions Submitted by Members of the Public

32.1 The Council has a procedure to enable members of the public to submit questions at ordinary meetings of its Committees and Sub-Committees. This is set out in [Appendix 7](#). Separate procedures for public involvement apply to meetings of the Council's Planning, Licensing and Scrutiny committees and sub-committees which can be accessed by clicking this [link – public involvement](#).

33 Committee and Sub-Committee Agenda - Urgent Items of Business

33.1 Generally, business will only be transacted at meetings of Committees and Sub-Committees which appears on the agenda and which has been available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.

33.2 The Chairman of the Committee or Sub-Committee may agree to deal with an item of business at the meeting if, in his/her opinion, the matter is urgent given the circumstances requiring a decision. The Chairman's ruling and the reasons for urgency will be recorded in the Minutes of the meeting.

34 Attendance of Members at Committees and Sub-Committees of which they are not Appointed Members

34.1 Notwithstanding their rights as a member of the public, a Member may attend any meeting of a Committee or Sub-Committee to which he/she has not been appointed, for the purposes of performing his/her duties as a Councillor, including when exempt or private and confidential business is transacted, provided that such attendance is agreed in advance by the Monitoring Officer and the Chairman of the meeting on the basis that the Member has a "need to know" about the exempt or private and confidential business to be transacted.

34.2 Where a Member has permission to attend a meeting under Procedure Rule 34.1 above, he/she will be given, when he/she arrives at the meeting, a copy of the agenda and relevant papers.

34.3 The Member has no right to vote, but may speak with the consent of the Chairman of the meeting.

34.4 At meetings of the Strategic Planning Board and Planning Committees, Members' speaking rights are subject to the protocol on public speaking entitled '[Public Speaking Rights at Strategic Planning Board and Planning Committees](#)'

35 Overview and Scrutiny Committees/Sub-Committees

35.1 In applying these Procedure Rules to overview and scrutiny committees and sub-committees, regard shall be had to the [Overview and Scrutiny Procedure Rules](#).

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Executive Arrangements and Cabinet Procedure Rules

36 Appointing the Cabinet and Responsibility for Functions

36.1 At the Annual Meeting of Council, the Leader will present to the Council a written report containing the following information about executive functions in relation to the coming year:

36.1.1. the names, addresses and wards of the people appointed to the Cabinet by the Leader;

36.1.2. the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;

36.1.3. the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;

36.1.4 the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any joint committee for the coming year; and

36.1.5 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 (where this is not already covered in the Council's Constitution).

36.2 Where the Cabinet, a committee of the Cabinet, or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to a committee of the Cabinet, an area committee, joint arrangements, or an officer.

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

37 The Law and Executive Functions

37.1 Those responsible for discharging executive functions will ensure that they are acting within the law and this Constitution.

37.2 The functions in question are set out in Part 3 of this Constitution. This also sets out the body or individual responsible for taking decisions in respect of executive functions.

37.3 The Cabinet, and any individual member or committee thereof, must ensure, and be satisfied, that they have appropriate and adequate

legal, financial and other relevant professional advice from officers before taking a decision on any matter before them. Advice from the Council's Monitoring Officer and Section 151 Officer should always be obtained where there is doubt about vires, procedure or probity.

38 Conflicts of Interest

- 38.1 Where the Leader or any Cabinet Member has a conflict of interest, s/he will follow the requirements of the Council's Code of Conduct for Members.
- 38.2 If all (or a majority) of the Members of the Cabinet present have a conflict of interest then consideration will be given to applying to the Audit and Governance Committee for a dispensation from the provisions of the Code.
- 38.3 If the discharge of an executive function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest, then the action set out in 38.2 shall be considered.

39 Meetings of the Cabinet

- 39.1 The Cabinet will meet as indicated in the Council's programme of meetings. The Cabinet or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/he/she sees fit.
- 39.2 The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules contained in the Constitution.
- 39.3 The Leader will preside at meetings of the Cabinet. If the Leader is absent then the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Cabinet Members present shall appoint one of their number to be the chairman of that meeting.
- 39.4 All Members of the Cabinet shall be entitled to attend meetings of the Cabinet unless the Cabinet determine otherwise.
- 39.5 Attendance by other Members of the Council or the public shall be in accordance with the Access to Information Procedure Rules, by invitation, or as set out in paragraphs 45.1 to 45.4 below.

40 Quorum at Cabinet Meetings

- 40.1 The quorum at a meeting of the full Cabinet, or a Committee or Sub-Committee established by the Cabinet, shall be 50% of its voting membership.

41 Attending and speaking at Cabinet Meetings

41.1 The Chairman and Spokesperson(s) of the Council's overview and scrutiny committees shall be entitled, at any formal public meeting of the Cabinet, to speak to any matter on the agenda for that meeting.

41.2 Other Members not previously described above may also speak at such meetings with the permission of the Leader or person presiding in his/her absence.

41.3 At every formal public meeting of the Cabinet there shall be a period of 20 minutes for questions to be put to Cabinet members by members of the Council. Notice of these questions is not required in advance of the meeting. The following rules shall apply:

- Questions must relate to the powers, duties or responsibilities of the Cabinet.
- Questions put to Cabinet members must relate to their portfolio responsibilities.
- The Leader will determine how Cabinet question time should be allocated where there are a number of members wishing to ask questions.
- Questions will be brief, clear and focussed.
- Questions which the Leader deems to be:
 - inappropriate, frivolous, derogatory or vexatious;
 - related to a Council employment or staffing matter or
 - defamatory.will not be allowed.
- Questions will not be allowed which repeat, or which are substantially the same as questions asked at a meeting of Council or Cabinet within the preceding 6 months.
- Where any question might be disallowed under the agreed provisions, the Leader, as chairman of the Cabinet, will have absolute discretion to determine whether to do so.
- Questions will be asked and answered without discussion. In replying, the Cabinet member responding will use their reasonable endeavours to address the matters raised in the question. The Cabinet member responding may decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.
- Following each answer, the Leader may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.
- Where a question relates to a matter which appears on the agenda of the Cabinet meeting in question, the Leader may allow the question to be asked at the beginning of consideration of that item.

41.4 The Cabinet may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Council's obligations under the Local Government Acts in respect of Access of Information and Data Protection are observed.

42 Business at Cabinet Meetings

42.1 The business to be transacted at a meeting of the Cabinet will be set out in an Agenda for that meeting, subject to any requirements or exemptions under the Access to Information Procedure Rules.

42.2 The Agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the Cabinet will be made available, electronically, in advance of the respective meeting, to all Members of the Council and in accordance with the Council's current policy.

42.3 The Cabinet is obliged to consider matters referred to it by an overview and scrutiny committee, or by the Full Council, for consideration under the Overview and Scrutiny Procedure Rules.

42.4 The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.

42.5 The Monitoring Officer, or his/her nominated officer, shall be responsible for preparing and distributing the Agenda for Cabinet meetings, attending meetings for the purpose of advising the Cabinet on matters within his/her area of responsibility and recording decisions as required under this Constitution.

42.6 In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from the relevant service, and from legal and financial advisers who shall, where appropriate, be present at any meeting where a decision is being taken and that that advice is taken into consideration in determining the matter. Where there is any doubt about vires, procedure or probity then advice must be obtained from the Monitoring Officer and the Section 151 Officer.

42.7 Meetings of the Cabinet will be programmed into the Council diary. The Cabinet can agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it sees fit.

42.8 The order of business at Cabinet meetings is a matter for the Cabinet to determine.

- 42.9 Any Member of the Cabinet may require the Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Cabinet.
- 42.10 Any Member of the Council may request the Leader to place an item on the Agenda of a meeting of the Cabinet. The Leader shall have sole discretion as to whether or not to accede to such a request and, if such a request is granted, whether the Member in question can speak to the item at the meeting in question.
- 42.11 The Head of the Paid Service, the Monitoring Officer and/or the Section 151 Officer can include an item for consideration on the Agenda of a Cabinet Meeting. In pursuance of their statutory duties they can require that a special meeting of the Cabinet be convened.
- 42.12 Except where it is urgent, business cannot be conducted at formal meetings of the Cabinet unless it is included in the Agenda for the meeting. An item of business which is not included on an agenda for a Cabinet meeting may not be considered unless the Leader or person presiding is of the opinion that the matter is urgent and cannot await another meeting, and unless the requirements of the Access to Information Procedure Rules have been complied with. This shall also apply to any committee of the Cabinet or to an individual Portfolio Holder.
- 42.13 The Cabinet will report to the Council, as required under the Access to Information Procedure Rules, on any matter which is classified as a key decision and which is dealt with under special urgency procedures.
- 42.14 Subject to 3 clear working days' notice being provided to the Head of Governance and Democratic Services, questions can be submitted by members of the public at meetings of the Cabinet, in accordance with Council Procedure Rule No. 41 and [Appendix 7](#) of the Procedure Rules.
- 42.15 Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Council's procedures, and shall not be implemented where the right of call-in applies and has been exercised until the call-in process has been concluded. Where the right of call-in applies but is not exercised, a Cabinet decision may be implemented immediately after the expiry of the call-in period.
- 42.16 A written record of all Cabinet decisions will be kept by the Head of Governance and Democratic Services and these will be made available publicly as soon as practicable after the decision has been taken (excluding the disclosure of confidential and exempt information and in accordance with the Overview and Scrutiny Procedure Rules). In recording decisions of the Cabinet, the Head of Governance and Democratic Services will set out the decision, the reasons for the

decision and alternative options considered as required under the Access to Information Procedure Rules in the Constitution.

43 Voting at Cabinet Meetings

- 43.1 Voting at Cabinet meetings will be by a show of hands and any Cabinet Member may require, immediately after the vote is taken, that the Minutes of the meeting record how he/she voted or that he/she abstained. Where there are equal votes cast and the Leader or person presiding has voted, the Leader or person presiding will have a second or casting vote. Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be by a vote conducted in accordance with Council Procedure Rules.

44 Cabinet Committees/Sub-Committees and Task Groups

- 44.1 The Leader or the Cabinet may appoint such Committees or Sub-Committees as are considered necessary and appropriate to assist in the discharge of executive functions. In making such appointments, the name of the Committee/Sub-Committee must be specified, along with its membership (including its Chairman and, if appropriate, Vice-Chairman) and its powers.
- 44.2 The Cabinet may also appoint whatever task or advisory groups it deems necessary, comprising some or all of its own membership, any other member or non-member of the Council.

45 Decision Making By Individual Portfolio Holders

- 45.1 Where the Leader has delegated decision making powers to individual Portfolio Holder they will exercise their powers and duties in accordance with these rules and Part 3 of this Constitution.

46 Motion Under Procedure Rule 11

- 46.1 A mover of a motion under Procedure Rule 11 which has been referred to the Cabinet for consideration may attend the meeting of the Cabinet when his/her motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent a copy of the relevant papers. This does not affect the right of the mover or seconder of the motion to attend a Scrutiny body when his/her motion is being considered.

47 Resolving Disputes

- 47.1 In the case of any dispute during the proceedings of the Cabinet the relevant parts of this Constitution will apply and, after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and his/her ruling will be final.

48 Reserves/substitute members

48.1 There shall be no reserve or substitute members of the Cabinet.

49 Urgent Decisions – Executive Matters

49.1 Where any matter is urgent and cannot await the next meeting of the relevant executive body or Portfolio Holder, the matter may be determined in accordance with [Appendix 4](#) of the Council Procedure Rules.

50 The Forward Plan and Key Decisions

50.1 The Leader will ensure that the requirements of the Access to Information Procedure Rules are met in relation to the publication of Key Decisions.

50.2 Those decisions which are Key Decisions are defined in Part 2 (A), paragraph 4 of this Constitution.

50.3 Where the Cabinet as a body is making Key Decisions, that meeting shall be held in public in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The requirements of these Regulations also apply to any body, Portfolio Holder or Officer to whom the relevant executive powers have been delegated.

50.4 When the Cabinet or a Portfolio holder exercising an executive function under delegated powers receives a report or background information which he/she intends to take into consideration when making a Key Decision (and the report or papers are not exempt or confidential) that decision shall not be taken until the report has been made available for inspection by the public for five clear working days following receipt of the report by the decision taker. A copy of such report must be supplied as soon as reasonably practicable to the Chairman of the relevant overview and scrutiny committee or, in his/her absence, the Vice-Chairman of the Committee. The report must also list any background papers.

50.5 Where the inclusion of a matter in the Forward Plan is impracticable (28 clear days' notice being required for private decisions) and the matter would be a Key Decision, that decision shall only be made:

- (a) where the Monitoring Officer has notified the Chairman of the relevant overview and scrutiny committee, or in his/her absence the Vice-Chairman of the committee, of the matter about which the decision is to be made;

- (b) where the Monitoring Officer has made available for public inspection a copy of the notice given under (a) above; and
- (c) where a period of five clear working days has elapsed since the Monitoring Officer made available the notice referred to in (b) above.

50.6 Where the date by which a Key Decision must be made makes compliance with the requirements under 54.5 above impracticable, the decision shall only be made where the decision maker has obtained agreement from:

- (a) the Chairman or, in his/her absence, the Vice-Chairman of the relevant overview and scrutiny committee; or
- (b) if there is no Chairman or Vice-Chairman of the relevant overview and scrutiny committee, or if neither is able to act, the Mayor or, in his/her absence, the Deputy Mayor

that the making of the decision is urgent and cannot reasonably be deferred. Such decisions when made are not subject to the provisions relating to call-in. All Members will be sent electronic notification of the agreement reached that compliance with the requirements of Rule 54.5 above was impractical.

50.7 The Leader shall submit a report to the Full Council containing details of each Key Decision taken during the preceding three months under 54.6 above and agreed as urgent. The report will include particulars of each such Key Decision and a summary of the matters in respect of which each decision was made.

50.8 Where an executive decision which was not classified as being a Key Decision has been made and the relevant overview and scrutiny committee is of the opinion that the decision should have been so classified, that Committee may require the Cabinet to submit a report to the Full Council within such reasonable period as the Committee may specify, containing the following details:-

- (i) the decision and the reasons for it;
- (ii) the decision maker; and
- (iii) if the Cabinet is of the opinion that the decision is not a Key Decision, the reasons for this view.

PROCEDURE RULES: GENERAL PROVISIONS

51 Records of Attendance

51.1 Members of the Council attending a meeting of which they are a Member must sign their name on the attendance sheet provided.

52 Disclosure of Confidential/Exempt Matters

52.1 Matters not open to the Public or Press

No Member shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not for publication" unless and until the document has been authorised to be made available to the public or the press by or on behalf of the Council, the Cabinet, a Committee or Sub-Committee.

52.2 Matters which may prejudice the interest of the Council

No Member shall disclose to any person other than a Member of the Council any matter arising during the proceedings of the Council, the Cabinet, any Committee, Sub-Committee, Panel or Board and which comes to his/her knowledge by virtue of his/her office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law.

52.3 Decisions or Proceedings of the Council, the Cabinet, Committees, Sub-Committees, Panels and Boards

No Member shall, without the consent of the Chairman of the appropriate body, disclose to any person any decision or proceedings of that body except:

- (a) when a report on the matter has been circulated to the Council by that body; or
- (b) when the decision has become public knowledge; or
- (c) when the matter comes within the powers of that body and a final decision has been made upon it;

provided that this paragraph shall not authorise any disclosure which would contravene paragraphs 52.1 or 52.2.

52.4 Prohibited Disclosure

The press and public shall be excluded during the consideration of any item of business which would be likely to disclose information which:-

- (a) has been furnished to the Council by a Government Department on terms which forbid disclosure; or

(b) would be prohibited by law or by an order of the Court.

53 Disorderly Conduct

53.1 Motion to end Disorderly Conduct

If at a meeting any Member of the Council, in the opinion of the person presiding, misconducts themselves in any way, the person presiding or any other Member may move "That the Member be not further heard". The motion, if seconded, shall be put and determined without discussion.

53.2 Persistent Misconduct

If the Member continues the misconduct after a motion under the foregoing paragraph has been carried, the person presiding may: either move "That the Member do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.

53.3 General Disturbance

In the event of general disturbance at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding, will have the power to adjourn the meeting.

54 Disturbance by Members of the Public

54.1 If a member of the public interrupts the proceedings at any meeting, the person presiding shall warn him/her. If he/she continues, the person presiding shall order his/her removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

55 Inspection of Documents

55.1 Supply of Agenda papers to Members of the body in question

Members of Council decision-making and other bodies will be provided with hard copies of agenda papers.

55.2 Supply of Agenda and Minutes to those Members who are not Members of that particular body

To help a member perform his/her duties as a member, agenda papers and records of decisions, or minutes of decision-making bodies will be made available to them electronically. Private, confidential and exempt reports will not be made available but may be requested from the Monitoring Officer who will have discretion to provide or withhold such reports.

55.3 Minutes of the decision making bodies - Open for Inspection

Subject to Procedure Rules 56 and 49.1 the Minutes of the Council, Committees or Sub-Committees, and Cabinet Decision Records shall be open for inspection by any Member of the Council.

56 Provisions relating to Personnel Matters

- 56.1 The recruitment and appointment of staff and the responsibilities for Personnel matters will be governed by the Staff Employment Procedure Rules.

57 Sealing of Documents

- 57.1 Authority

The Common Seal of the Council shall not be affixed to any document unless the sealing has been properly and lawfully authorised. A resolution of the Council (or of a Committee or Sub-Committee where such body has the power) or a decision of the Cabinet authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate of contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

- 57.2 Attestation

The seal shall be attested by the Monitoring Officer or his/her authorised deputy, designated for this purpose, as required by this Constitution and a record of the sealing of every document shall be kept.

58 Signature of Documents

- 58.1 Subject to special requirements relating to Contracts, where any document will be a necessary step in any legal process or proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises, or the Council shall have given the necessary authority to some other person for the purpose of such process or proceedings, be signed by the Monitoring Officer or his/her authorised deputy (designated for this purpose).

59 Variation and Revocation of Procedure Rules

- 59.1 Any motion to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

60 Suspension of Procedure Rules

60.1 Motion Required

Subject to Rule 64.2, any of the preceding Procedure Rules may be suspended in respect of any business at a meeting of the Council, a Committee or Sub-Committee where its suspension is moved and carried.

60.2 Notice of Motion

A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 10) unless there shall be present at least one-third of the Members of the Council or that Committee or Sub-Committee respectively.

61 Interpretation of Procedure Rules

61.1 The ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

62 Submission of Notices by Members – Electronic Means

62.1 A Member of the Council may communicate, by electronic means, any notice under any of the Constitution's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Member.

63 Definition of 'Clear Working Days'

63.1 Throughout these Procedure Rules, and the Constitution generally, there are references to 'clear working days'. A period of one or more working days means a period comprising one or several consecutive periods of 24 hours (excluding weekends and bank holidays) beginning and ending at midnight. A clear day excludes the date of dispatch and date of the meeting.

64 Disclosable Pecuniary Interests – Requirement to Withdraw from Meeting

64.1 A Member who declares a disclosable pecuniary interest in an item of business is required to withdraw from the meeting at the appropriate juncture.

65 Petitions

65.1 Petitions regarding matters affecting the area or the functions of the Council or relating to consultation exercises or pursuant to specific legislation may be accepted at the start of an Ordinary Council meeting. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless the

Extraordinary Council Meeting is convened to consider the subject matter of the petition.

- 65.2 Petitions must be 'signed' (in person or by name if electronic) by at least 10 petitioners and contain the name and contact details of the 'petition organiser'.
- 65.3 For a Petition to be reported to and debated at a meeting of the Council, it must contain at least 3000 signatories or petitioners (reduced to 1500 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The Petitions Officer will request the appropriate Chief Officer to prepare a report. This report together with the Petition will be presented to full Council for debate. Council may then refer the Petition to the appropriate decision making body for further consideration.
- 65.4 Petitions that are considered by the Monitoring Officer to be vexatious, frivolous, abusive, defamatory or otherwise inappropriate will not be accepted.
- 65.5 Petitions to hold an officer to account may be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter. The petition must contain at least 2000 signatories/petitioners (reduced to 1000 signatories/petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). Such Petitions must relate to the Chief Executive, a Director or a Head of Service of the authority. Any petition that raises issues of competence or misconduct will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure Rule.
- 66.6 Where a petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.

APPENDIX 1

MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

1. Appointment of a Chairman of the meeting at which the motion is made.
2. Motions relating to the accuracy of the minutes of the Council, a Committee or Sub-Committee.
3. That an item of business specified in the summons should have precedence.
4. Reference to the Council, a Committee, Sub-Committee, or the Cabinet.
5. Appointment of or appointment to Committees, Sub-Committees, or the Cabinet occasioned by an item mentioned in the summons to the meeting.
6. Receipt of Records of Decisions and Minutes of Committees and Sub-Committees
7. Adoption of recommendations of the Cabinet, Committees and Sub-Committees and any consequent resolutions.
8. That leave is given to withdraw a motion.
9. Receipt of reports of officers and any consequent resolutions.
10. Extending the time limit for speeches.
11. Amendment to motions.
12. That the Council proceed to the next business.
13. That the question be now put.
14. That the debate be now adjourned.
15. That the Council do now adjourn.
16. Authorising the sealing of documents.
17. Suspending Procedure Rules, in accordance with Procedure Rule 64.
18. Motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public.

19. That a Member named under Procedure Rule 57 should not be heard further or should leave the meeting.
20. Giving consent of the Council where consent of the Council is required by these Procedure Rules.

APPENDIX 2

NOTICES OF MOTION

1 Procedure before the Meeting

Notice of every motion (other than a motion which under Procedure Rule 10 may be moved without notice) shall be given in writing, signed by the Member(s) of the Council giving the notice, and delivered, at least seven clear working days before the next meeting of the Council, to the Director of Legal Services or the Head of Governance and Democratic Services by whom it shall be dated, in the order in which it is received.

Members are permitted to submit Notices of Motion in email and electronic form.

The Monitoring Officer shall, if need be, give a ruling as to whether the Motion is relevant.

If the Monitoring Officer considers the motion, amendment or question to be vexatious, irrelevant, defamatory, frivolous, offensive, defamatory, relates to employees or is otherwise improper the Director of Legal Services will return it to the Member who submitted it along with an explanation in writing to the Member about why it will not be included on the agenda circulated for the meeting.

2 Motions to be set out in Summons

The agenda papers for every ordinary meeting of the Council will set out the full text of all motions of which notice has been duly given, unless the Member giving the notice has intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the papers according to the order in which they have been received.

No notice of motion which, in the opinion of the Mayor, deals with the same or a similar matter to one which had come before Council during the previous 6 months, shall be included on the Council agenda.

3 Withdrawal of Motion which is before the Council

A Notice of Motion will be regarded as withdrawn if:

prior to the Council meeting, an indication to this effect is given in writing to at least one of the above-named officers by the Member who submitted the Notice; or

at the Council meeting, oral notice to this effect is given by the Member who submitted the Notice; or

the Notice of Motion is not moved and seconded at the meeting of Council.

4 Procedure at the Meeting

When a Motion has been moved and seconded the mover and seconder shall not be entitled to make a speech if the Mayor decides that it shall stand referred without discussion to such of those bodies as the Mayor may determine, for determination. However, if the Mayor considers it conducive to the despatch of business, the motion may be dealt with at the meeting at which it is initially considered.

5 Procedure after the Meeting

Each motion will then be referred to the relevant decision-making body for determination, without the need for any reference back to Council except where:

- arising from consideration of the motion, the Constitution Committee recommends to the Council a change to the Constitution; or
- there is some other legal or Constitutional requirement for the matter to be referred back to Council.

Unless the chairman of the appropriate decision-making body agreed there were good reasons not to do so, notices of motion must be referred to that body within two meeting cycles, and that the proposer of the motion would be consulted before the Chairman decided the matter.

At the meeting of the body to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion. In the case of a Cabinet meeting, the relevant Portfolio Holder (or in his/her absence the Leader or Deputy Leader) will respond to the motion after the proposer and seconder have spoken.

APPENDIX 3

RULES OF DEBATE

1 Motions and Amendments

No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chairman, motions or amendments shall be put in writing and handed to the Chairman before they are further discussed or put to the meeting. The Chairman may, at his/her discretion, allow a motion or amendment to be put which is not in writing, provided that the Chairman has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 12.

2 Seconder's Speech

When seconding a motion or amendment a Member may advise the Chairman that he/she will reserve his/her right to speak until a later period in the debate.

3 Only One Member to Stand at a Time

When speaking at a Council meeting a Member would usually be required to stand and address the Mayor. However the Mayor may choose to relax this convention. While a Member is speaking the other Members will remain seated, unless rising on a point of order or in personal explanation.

4 Content and Length of Speeches

A Member will confine his/her speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Members when the Council is agreeing a budget, or where the Council, Committee or Sub-Committee otherwise agrees, no speech will exceed five minutes.

In advance of the meeting at which the Council is due to agree a budget, the Council's Political Groups may agree that a limited number of speeches will be made on behalf of each Political Group, which exceed the five minute limitation contained in these Rules. The Mayor will have discretion as to how this will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the five minute limitation might be permitted to operate.

5 When a Member may speak again

At a Council meeting a Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;

- (b) if the motion has been amended since he/she last spoke, to move a further amendment;
- (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply given by paragraph 11 or 13 of this Appendix;
- (e) on a point of order referring to the specific Procedure Rule;
- (f) by way of personal explanation;
- (g) to move one of the motions specified in 12(b) to (j), below when the procedure in those paragraphs shall be followed.

At Committees or Sub-Committees Members may, at the discretion of the Chairman, speak more than once.

6 Amendments to Motions

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

- (a) to leave out words;
- (b) to leave out words and add others;
- (c) to insert or add words;

but such amendment shall not have the effect of negating the motion before the Council.

7 Number of Amendments

Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, although the Chairman may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.

8 Status of Amendments

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

9 Alterations to Motions or Amendments

A Member may alter a motion or amendment of which he/she has given notice and may also, with the consent of the seconder, alter a motion or amendment which he/she has moved. In both cases, the consent of the Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

10 Withdrawal of Motion

A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

11 Right of Reply

The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have a right of reply to the debate on his/her amendment immediately before the mover of the original motion exercises his/her right of reply at the close of the debate.

12 Motions which may be moved during debate

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

- (a) to amend the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to proceed to the next business;
- (e) to suspend Procedure Rules;
- (f) to refer a matter to the Council, Cabinet, a Committee or Sub-Committee for consideration or reconsideration;
- (g) that the question be now put;
- (h) that a Member be not further heard;
- (i) by the Chairman under Procedure Rule 57, that a Member do leave the meeting;
- (j) a motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.

13 Closure Motions

A Member may move, without comment, at the conclusion of a speech of another Member, "That the Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Council do now adjourn". When one of these Motions has been seconded the Mayor shall proceed as follows:

- (a) on a motion to proceed to next business - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;
- (b) on a motion that the question be now put - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote;
- (c) on a motion to adjourn the debate or the meeting - if in his/her opinion the matter before the meeting has been insufficiently discussed on that occasion he/she shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

14 Points of Order

A Member may rise on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision, and the Member shall specify the Procedure Rule or statutory provision and the way in which he/she considers it has been breached. A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the current debate.

15 Ruling of Chairman on a Point of Order/Personal Explanation

The ruling of the Chairman of the meeting on a point of order or on the admissibility of a personal explanation shall not be open to discussion and shall be final.

16 Respect for the Chairman

At the Council meeting whenever the Mayor rises during a debate a Member then standing shall sit down and the Council shall be silent. In Committee or Sub-Committee meetings, whenever the Chairman rises from his/her seat, the Members should remain in their seats and the Committee or Sub-Committee shall be silent.

APPENDIX 4

URGENT DECISIONS TAKEN OUTSIDE OF MEETINGS

Definition of an urgent decision

A decision will be urgent in the case of: civil emergency; natural or man-made disaster; matter of serious public health; matters regarding safeguarding of people; or where the Council is at risk of serious reputational damage; loss or claims; or any other matters where the CE or in his/her absence the CFO has declared that an urgent decision is required. If a decision is deemed an urgent decision caused by a failure to plan appropriately or work without due regard to timeliness, the circumstances giving rise to the need for the decision should be reported to the Audit and Governance Committee.

Urgent Decisions: Council (Procedure Rule 18)

If a decision would normally be required to be made by full Council the decision may be made by the Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with Group Leaders and the Mayor (or in his/her absence the Deputy Mayor) subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Council, or an urgently convened Council meeting;
- The decision is reported for information to the next available meeting of the Council;
- The provisions of legislation are complied with;
- Advice has been taken from the Chief Executive, Council's Director of Legal Services and Section 151 Officer;
- All Members of the Council are notified of the decision taken by electronic means.

Urgent Decisions: Regulatory / Non-Executive matters (Procedure Rule 25)

The Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chairman and/or Vice-Chairman of the relevant committee or sub-committee has delegated authority to take any non-executive decision subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the decision-making body, or an urgently convened meeting;
- The decision is reported for information to the next available meeting of the decision-making body;
- The provisions of legislation are complied with;

- Advice has been taken from the Council's Director of Legal Services and Section 151 Officer;
- All Members of the Council are notified of the decision taken by electronic means.

Urgent Decisions: Cabinet / Executive Matters (Procedure Rule 53)

The Leader of the Council, or in his/her absence the Deputy Leader of the Council, or in his/her absence the relevant portfolio holder has delegated authority to take an urgent executive decision in consultation with the Chief Executive subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Cabinet, or an urgently convened Cabinet meeting;
- The decision is reported for information to the next available meeting of the Cabinet;
- The provisions of legislation are complied with;
- The relevant overview and scrutiny committee Chairman has been notified of the matter and has been invited to make representations;
- The Leaders of all Opposition Groups have been notified of the matter and have been invited to make representations;
- Advice has been taken from the Council's Director of Legal Services and Section 151 Officer;
- All Members of the Council are notified of the decision taken by electronic means.

In addition the following provisions shall apply:-

- Rules 13, 14 and 15 of Access to Information Procedure Rules shall be adhered to, relating to the content of the Forward Plan, general exceptions to the requirement to list decisions on the Forward Plan, and circumstances of special urgency
- Rule 54 of the Executive Procedure Rules shall be adhered to, relating to the Forward Plan and Key Decisions
- Overview and Scrutiny Procedure Rules in relation to Call-in (Rule 12) shall not apply to urgent executive decisions taken under this procedure (see Rule 13).
- Rule 4 of the Budget and Policy Framework Procedure Rules shall be adhered to in relation to urgent executive decisions taken under this procedure.
- Overview and scrutiny committees can review the reasons for the urgency of a decision and the process adopted.

For the purposes of this urgency provision, the limit placed on the decision-making powers of individual Portfolio Holders in relation to decisions involving expenditure or savings of £1M or more would not apply.

APPENDIX 5

SUBSTITUTION ARRANGEMENTS

- 1 All Members of a Political Group will be regarded as being reserve Members, who may take the place of an appointed Member at a particular meeting of a committee or sub-committee, except in respect of the Planning and Licensing Committees.
- 2 In respect of the Planning and Licensing Committees, each Political Group will, by notice to the Monitoring Officer, nominate appropriately trained Members to be reserve Members for those Committees. Such reserve Members may take the place of an appointed Member at a particular meeting of the Planning or Licensing Committee in question. In addition to being appropriately trained, a substitute member for a planning committee meeting must be a member of another planning committee.
- 3 Members of the Cabinet shall not sit on or be nominated substitutes/reserve members for any Scrutiny bodies. This shall also apply to a Deputy Cabinet Member as referred to in Part 2, Chapter 7 of the Constitution.
- 4 Any reserve member acting as substitute shall inform the Chairman at the beginning of the meeting. The outgoing member shall cease to be the Political Group's representative on that Committee or Sub-Committee for the duration of that meeting or any adjournment of it, and that reserve Member shall become the representative on the Committee or Sub-Committee for the same period. At the end of the meeting, the outgoing Member shall resume his/her place on the Committee or Sub-Committee in question and the Member who had been appointed as substitute in his/her place shall revert to being a reserve Member.
- 5 The Monitoring Officer shall give notice and distribute agendas to all members of the Committee or Sub-Committee. Agendas will be made available to all other members by electronic means. Agendas will also be made available at the meetings in question.
- 6 For the avoidance of doubt, there are no substitution arrangements in respect of the Cabinet.

AGENDA ITEMS SUBMITTED BY MEMBERS

- 1 This facility does not apply to special meetings of Committees and Sub-Committees or to the Cabinet.
- 2 A Member of the Council may, by notice given to the Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 3 A Member may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Member.
- 4 This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Council within the preceding 6 months.
- 5 Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business.
- 6 This procedure will apply to Members of overview and scrutiny committee or sub-committees exercising their rights under Section 9FC(1)(a) and (b) of the Local Government Act 2000 to have an item, within the remit of that particular body, included on the Agenda and discussed at the next meeting of that body. Where a Member is exercising their rights under Section 9FC, the restrictions in paragraph 3 on the number of items shall not apply.
7. Section 9FC also permits any member to request that an item of business is added to an agenda of a relevant overview and scrutiny committee provided it is not an excluded matter and is relevant to the functions of the overview and scrutiny committee.

PUBLIC SPEAKING AND QUESTIONS

1. A total period of 15 minutes will be allocated for members of the public to speak at Council meetings.
2. A total period of 10 minutes will be allocated for members of the public to speak at meetings of the Cabinet, committees and sub-committees. This does not apply to meetings of the Council's Planning, Licensing and overview and scrutiny committees and sub-committees, which have separate arrangements in place for public involvement. The arrangements for planning meetings are set out in the [Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees](#)
3. Subject to paragraph 7 below, members of the public are not required to give notice of their intention to make use of the public speaking facility (although as a matter of courtesy, a period of 24 hours' notice is encouraged).
4. Members of the public may speak on any matter relating to the work of the body in question, provided that the Chairman retains the discretion to rule a speech out of order and require the member of the public to cease speaking if the speech covers confidential issues or is derogatory or defamatory or inappropriate for any other reason.
5. Members of the public will normally be allowed up to 5 minutes each to speak, but the
6. The Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.
7. During public speaking time, members of the public may ask questions of the appropriate Cabinet Member or Chairman of the committee or sub-committee which has responsibility for the matter in question.
8. Where a member of the public wishes to ask a question of a Cabinet member, or of the Chairman of a committee or sub-committee, at least 3 clear working days' notice must be given in writing to the Head of Governance and Democratic Services, in order that an informed answer may be given.
9. The Member responding to the question may answer the question, may decline to do so, may agree to reply at a later date or may refer the question to an appropriate committee, or to the Cabinet. Questions will be asked and answered without discussion.
10. In addition to the general provisions for public speaking set out in Committee Procedure Rule 35 and this Appendix, the following specific

provisions apply to meetings of the [Public Rights of Way Committee](#) in relation to individual applications on the agenda:

- 1 For each application on the agenda, a total of 6 minutes is allocated for public speaking, with 3 minutes being allocated for objectors and 3 minutes being allocated for supporters. If there is more than one person wishing to speak as an objector or supporter, the 3 minutes shall be divided equally among them or they may appoint one of their number to speak for all.
- 2 No member of the public shall speak on a matter before the Chairman has introduced the report. Members of the public may not participate in the debate or ask questions of Officers or Members.
- 3 At the Chairman's discretion, Members of the Committee may, through the Chairman, ask questions of a speaker for clarification but should not enter into a discussion with them.
- 4 Any member of the public wishing to address the Committee must give notice of their intention, in writing, to the Head of Governance and Democratic Services by 12 noon one clear working day before the meeting.
- 5 These provisions may be varied at the discretion of the Chairman.

MODEL AGENDAS FOR COUNCIL MEETINGS

AGENDA FOR ANNUAL COUNCIL MEETING

Standard Item

- Prayers
- Apologies for Absence
- Declarations of Interest
- Election of Mayor and Appointment of Deputy Mayor
- Mayor's Announcements
- Approval of Minutes of previous meeting
- Receive notification of Leader's Appointments to the Cabinet
- Leader's Announcements
- Political Representation on the Council's Committees
- Allocation of Chairmanships and Vice-chairmanships of the Committees of the Council
- Appointments to non-executive Organisations and Panels

AGENDA FOR ORDINARY COUNCIL MEETINGS

Standard Item

- Prayers
- Apologies for Absence
- Declarations of Interest
- Approval of Minutes of previous meeting
- Mayor's Announcements
- Public Speaking Time/Open Session

- Recommendations from Cabinet
- Leader's Announcements
- Recommendation from Committees
- Notices of Motion
- Questions from Members

Part B – Access to Documents and Information

Access to Information Procedure Rules

1.0 SCOPE

- 1.1 These rules cover all meetings of the Council and its Committees, Sub-Committees, Advisory Panels, Cabinet (together called meetings) and (where specified) executive decisions made by individual Members and Key Decisions made by Officers.
- 1.2 These rules also cover Members' rights of access to information.
- 1.3 These rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 1998. Details of these rights can here or obtained from the Council Offices, Westfields, Middlewich Road, Sandbach, CW11 1HZ.
- 1.4 These rules do not affect any more specific rights to information contained elsewhere in this Constitution in any Act.

2.0 PUBLIC ACCESS TO MEETINGS

- 2.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

3.0 NOTICE OF MEETINGS

- 3.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Westfields, Middlewich Road, Sandbach, CW11 1HZ (the designated office) and on its website. The notice will specify the business proposed to be transacted at the meeting.
- 3.2 Members entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the annual meeting, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

4.0 PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear

working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

- 4.2 Where an item is added to the agenda, and the report is open to the public, copies of any report for the meeting relating to the item, and the revised agenda shall be available for inspection from the time the item is added to the agenda.
- 4.3 Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless, by reason of special circumstances, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

5.0 PUBLIC ACCESS TO COPIES

- 5.1 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
 - 2
(c) if the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage, copying and any other costs.
- 5.2 Copies of the agendas of Cabinet meetings will be circulated to all Members.
- 5.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

6.0 PUBLIC ACCESS TO MINUTES ETC AFTER THE MEETING

- 6.1 The Council will make available for inspection copies of the following for six years after a meeting:
- (a) the minutes of the meeting 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 in Rules 9 and 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.

7.0 PUBLIC ACCESS TO BACKGROUND PAPERS

7.1 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/her 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 this does not include published works or those which disclose exempt or confidential information (as defined in Rules 9 and 10), nor in respect of executive reports, does this include the advice of a political advisor, or any draft report or document.

In respect of Cabinet Meetings background papers will be published on the Website.

7.2 Public inspection

- (a) A copy of each of the documents listed will be available for inspection at the same time as the report is available for public inspection.
- (b) The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers.

8.0 EXCLUSION OF PUBLIC ACCESS TO REPORTS

8.1 The Proper Officer will exclude access by the public to reports which in his/her opinion contain confidential information, (as defined in Rule 9).

8.2 If the Proper Officer thinks fit, access by the public may also be excluded to reports which in his/her opinion relate to items during which, in accordance with Rule 10 (Exempt Information) the meeting is likely not to be open to the public.

8.3 Such reports will be marked "Not for publication" together with "confidential information" or the exemption relied upon.

8.4 Where an exemption is relied upon, any such report must contain the reasons why, as in all in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9.0 CONFIDENTIAL INFORMATION – REQUIREMENT TO EXCLUDE PUBLIC ACCESS

9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

9.2 Confidential information means

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court.

10.0 EXEMPT INFORMATION – DISCRETION TO EXCLUDE PUBLIC ACCESS TO MEETINGS

10.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- (b) 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
- (c) 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.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

10.3 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.

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

Category	Condition
1. Information relating to any individual.	Information is exempt 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
2. Information which is likely to reveal the identity of an individual.	Information is exempt 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
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities</p>	<p>Information is exempt 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</p> <p>Information within paragraph 3 is not exempt if it must be registered under</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; <p>or</p> <ul style="list-style-type: none"> (f) the Charities Act 2011.
<p>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 officer-holders under the authority.</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter</p>	Information is exempt 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

Category	Condition
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt 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
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	Information is exempt 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
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt 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

EXCEPT THAT

Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

Category	Condition
7A. Information which is subject to any obligation of confidentiality.	Information is exempt 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
7B. Information which relates in any way to matters concerning national security.	Information is exempt 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
7C. Information presented to a Panel or Sub-committee of the Audit and Governance Committee, set up to consider any matter under regarding a failure to comply with Code of Conduct.	Information is exempt 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

(Section 7C was created to allow complaints submitted under the Standards Committee (England) Regulations 2008 to be discussed in private. Although these Regulations have been repealed the subsequent changes to the Access to Information provisions remain in the constitution)

10.5 Procedure at Panel or Sub-Committee of the Audit and Governance Committee

When a meeting of an Initial Assessment Panel is called this will be held in private. If a meeting of the Local Resolution Panel or a Hearing Sub-Committee of the Audit and Governance Committee is called they will normally meet in public.

10.6 Disorderly Conduct – discretion to exclude public

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

11.0 PUBLIC ACCESS TO CABINET MEETINGS

11.1 The Cabinet 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 – 10 therefore apply.

11.2 However if a Key Decision is to be made Rules 12 to 16 below also apply

11.3 If the Cabinet or its Committees meet to discuss a key decision that is due to be taken collectively and

- a) an Officer (other than a political adviser) is present at the discussion
- b) the discussion is within 28 days of the date by which, according to the Forward Plan, the decision is to be made

then Rules 1 – 11 must be complied with unless:

Rule 14 (general exception); or

Rule 15 (special urgency) applies; or

the principal purpose of the meeting is for the Officer to brief the decision maker on matters connected with the making of the executive decision.

12.0 PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Forward Plan;
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 3; and
- (d) where a decision is to be taken at a meeting of the Cabinet or its Committees, and the Cabinet believes that the matter will be considered in private, at least 28 clear days notice has been given in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

13.0 THE FORWARD PLAN OF KEY DECISIONS

13.1 Period of Forward Plan

Forward plans will be prepared by the Leader to cover a period of 28 clear days (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

13.2 Content of Forward Plan

13.2.1 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, Officers, Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. The Forward Plan must be published at least 28 clear days before the start of the period covered and made available to the relevant overview and scrutiny committees. It will describe the following particulars in so far as the information is available or might reasonably be obtained

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter; and
- (h) where the decision is to be taken in private the reasons for this and the process for making representations in accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 .

13.2.3 Exempt information (as defined in Rule 10) and confidential information (as defined in Rule 9) and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.

14.0 GENERAL EXCEPTION

14.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 15 (special urgency), 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;
- (b) the Proper Officer has informed the Chairman of a 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).

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

15.0 SPECIAL URGENCY

15.1 If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of

a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred and the decision is urgent. If there is no Chairman of a relevant overview and scrutiny committee, or if the Chairman of the relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

- 15.2 As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the website.

16.0 REPORTS TO COUNCIL

- 16.1 The Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17.0 PUBLIC ACCESS TO CABINET DECISIONS - RECORD OF DECISIONS

- 17.1 After any meeting of the Cabinet or any of its Committees, 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 reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18.0 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET OR OFFICERS

- 18.1 Where an Individual Cabinet Member or Officer receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 have been met

- 18.2 Provision of copies of reports to overview and scrutiny committees

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

- 18.3 Public access to record of individual decision

As soon as reasonably practicable after any executive decision has been made by an individual member of the Cabinet or a Key Decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 6 and 7 (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.

19.0 MEMBER ACCESS TO EXEMPT OR CONFIDENTIAL DOCUMENTS

- 19.1 This section deals with Member access to documents which contain confidential or exempt information, including agenda papers, background documents and minutes.
- 19.2 Members of a committee or decision-making body of the Council or of the executive are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.
- [19.3 In addition, the following categories of Member shall automatically receive copies of confidential or exempt executive reports:
- Group Leaders
 - Local Ward Members for the Ward affected, in accordance with the Ward Member Protocol
 - Relevant overview and scrutiny committee Chairmen and Vice-Chairmen
 - Members visiting the meeting in question (with the agreement of the Monitoring Officer and Chairman of the meeting) who would receive the papers upon arrival]
- 19.4 Subject to the provisions above, and to paragraph 19.5, any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter except where the report or document contains information relating to either of the following categories:
- Staffing information, where the identity of individual officers would be revealed
 - Information relating to vulnerable children and adults
- 19.5 Any Member wishing to receive or inspect a report or document containing information of the categories referred to in paragraph 19.4 must demonstrate a 'need to know' in accordance with the following process:
- The Member will submit to the Director of Legal Services, or to the Head of Governance and Democratic Services in writing, information in support of their claim to have a "need to know".

- The claim will be submitted to the relevant Chairman (or Vice Chairman, in his/her absence) of the non-executive committee or sub-committee in question, or to the Portfolio Holder (or the Leader, in his/her absence), in respect of an executive decision, for determination.
- 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.

19.6 All Members of the Council shall have access to all minutes and records of decisions, subject to the provisions of paragraphs 19.4 and 19.5.

20.0 NATURE OF ADDITIONAL RIGHTS

The members rights of access in Rules 19 and 20 are additional to any other statutory or common law rights they have including the right to access to information on a ‘need to know’ basis in order assist in the proper discharge of their duties as a member of the Council.

21.0 AUDIO RECORDING OF MEETINGS

All decision-making meetings of the Council (including Executive meetings and overview and scrutiny committee meetings) shall be audio recorded except where the public and press have by resolution been excluded from the meeting. Informal non-decision-making bodies such as working groups are excluded from this requirement. The audio recordings of meetings shall be published on the Council’s website

Part C – Budget and Policy Framework Procedure Rules

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1 The Framework for Executive Decisions

- 1.1 The Council will be responsible for the adoption of its budget and Policy Framework. Once the budget and Policy Framework are in place, it will be the responsibility of the Cabinet to implement them.
- 1.2 The Cabinet has responsibility for proposing to Council a budget and policies that will form part of the Policy Framework. It also has responsibility for making day-to-day decisions within that budget and Policy Framework.
- 1.3 This part of the Constitution is concerned with the process of developing the budget and Policy Framework and settling any differences between the Council and the Cabinet on those matters. Call-in and consideration of day-to-day decisions made by the Cabinet are dealt with in the Cabinet Rules of Procedure and the Overview and Scrutiny Procedure Rules.

2 Process for developing the framework and budget

- 2.1 The process by which the documents forming part of the Local Plan shall be developed and approved is set out in legislation.
- 2.2 The process by which all other aspects of the budget and Policy Framework shall be developed is:
 - (a) The Cabinet will draw up initial proposals regarding the adoption of any plan, strategy or budget forming part of the budget and Policy Framework. The Cabinet will consult on those initial proposals and publish a timetable in which responses to the consultation are to be received. The relevant Overview or Scrutiny Committees shall be asked to give their views as part of that consultation. The consultation period shall in each instance be determined by Cabinet but will not be less than four weeks.
 - (b) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses received from the consultation.
 - (c) Overview and Scrutiny Committees are responsible for fixing their work programmes and may investigate, research, or report in detail with

policy recommendations in response to any such consultations within the period specified.

- (d) The Cabinet will submit those firm proposals to the Council together with a report that will set out the comments made by consultees and, in particular the views of the Overview and Scrutiny Committees and the Cabinet's response to those views.
- (e) Once Cabinet has approved the firm proposals they will be referred at the earliest opportunity to Council for decision.
- (f) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own "in principle proposals" in their place.
- (g) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision.
- (h) The decision will be published and, if an in-principle decision has been made, a written copy shall be given to the Leader as soon as possible for the Cabinet to consider.
- (i) An in-principle decision will automatically become effective 5 working days from the day following the date of written notification to the Leader of the Council's decision, unless the Leader informs the Chief Executive in writing within those 5 days that the Leader objects to the decision becoming effective and provides reasons why in writing.
- (j) Where notification of an objection is received under (i) above, a meeting of Council will be called to be held within 28 days of the objection being received by the Chief Executive, to reconsider the decision that is the subject of the objection. In reconsidering the decision the Council must take into account the objection of the Cabinet and reasons for it and any revised proposals submitted by the Cabinet and the Cabinet's reasons for those revised proposals. The Council may either:
 - approve the Cabinet's recommendation; or
 - approve a different decision which does not accord with the recommendation of the Cabinet.
- (k) The decision shall then be published and implemented immediately.

2.2.1 In approving its budget each year, the Council may specify in addition to such matters dealt within the Finance Procedure Rules, the extent to which the Cabinet can agree virements within the budget and the degree to which in-year changes can be agreed by Cabinet to the

Policy Framework. Any other changes to the policy and budgetary framework are reserved to the Council.

- 2.3 Where a new plan or strategy is required to be produced as part of the Policy Framework, either by Council of its own motion, or following a recommendation to Council by an Overview or Scrutiny Committee, Cabinet shall develop the plan or strategy in accordance with the process set out within rule 2.1.

3 Decisions outside the budget or Policy Framework

- 3.1 Subject to the provisions of Rule 5 (virement), the Cabinet, or any decision-making arm of the Cabinet, may only take decisions that are in line with the budget and Policy Framework. If it wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to the provisions of Rule 4 below.

- 3.2 If the Cabinet, or any decision-making arm of the Cabinet, wants to make a decision, advice shall be taken first from the Monitoring Officer and/or the Section 151 Officer as to whether the decision would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of any of those Officers is that the decision would not be in line with the existing budget and/or Policy Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the budget or Policy Framework) shall apply.

4 Urgent decisions outside the budget or Policy Framework

- 4.1 The Cabinet or an individual member of the Cabinet 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, in exceptional circumstances and if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

- 4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the Chairman of the relevant overview and scrutiny committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the relevant overview and scrutiny committee the consent

of the Vice Chairman or, in the absence of both, the Mayor, will be sufficient.

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

5 Virement

- 5.1.1 The Council has set virement limits within which decision-makers can exercise discretion in approving or otherwise financial transfers within the Budget. The limits are set out in the table below.

- 5.2 Where the Cabinet or an individual is discharging executive functions to implement Council policy, then any decision to spend or make savings shall not exceed those budgets allocated to each budget head for which they have responsibility. However, the Cabinet or those individuals shall be entitled to vire across budget heads provided there is compliance with the financial limits in the table below and the Finance Procedure Rules.

6 Policy Framework – In-year Changes

- 6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions of the Cabinet or an individual member of the Cabinet must be in line with it. Changes (including modifications, revisions, variations, withdrawal or revocation) to Policy Framework plans or strategies must ordinarily be approved by the Council. However the Council may, at the time when the plan or strategy is approved, authorise the Cabinet, or a body or individual exercising Cabinet functions, to make such changes, provided that those changes will:

- (i) result in the closure or discontinuing of a service, in whole or in part to meet a budgetary constraint; or
- (ii) ensure compliance with the law, ministerial direction or Government guidance; or
- (iii) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, determine matters where the existing policy document is silent on the matter under consideration.

7 Call-in of decisions outside the budget or Policy Framework

- 7.1 Where an overview and scrutiny committee is of the opinion that a decision of the Cabinet, or any decision-making arm of the Cabinet, 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 Section 151 Officer.

- 7.2 In respect of functions which are the responsibility of the executive, and where the decision has already been made and implemented, the Monitoring Officer/Section 151 Officer, shall report to the Cabinet on the advice that has been given to the overview and scrutiny committee and shall copy that report to each member of the Council. The Cabinet must consider the report of the relevant Officer and decide what action to take in respect of the report. Where the advice concluded that there was a departure from the Budget or Policy Framework, the Cabinet must report to Council on the action it intends taking. Where there was no such departure, the Cabinet must report to the overview and scrutiny committee on any action to be taken.
- 7.3 If the decision has yet to be made or, has been made but not yet implemented, and the advice of the relevant 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 the Council. In such cases, no further action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 28 days of the request by the overview and scrutiny committee or sub-committee. At the meeting the Council will receive a report of the decision or proposals and the advice of the relevant Officer. If the Cabinet has prepared a report on the matter, this will also be submitted to the Council. The Council may either:
- (i) endorse the decision or proposal of the Cabinet, or its decision-making arm, as falling within the existing budget and Policy Framework of the Council. In this case, no further action is required other than the decision of Council be minuted and circulated to all Councillors; or
 - (ii) amend the Council's Finance Procedure Rules or the policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required other than the decision of Council be minuted and circulated to all Councillors; or
 - (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 or budget to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the relevant Officer(s).

8 The Policy Framework

The Council's Policy Framework comprises:

- Children and Young People's Plan
- Crime and Disorder Reduction Strategy

- Education Development Plan
- Local Transport Plan
- Local Development Framework
- Youth Justice Plan
- Licensing Policy
- Gambling Statement of Principles
- Food Law Enforcement Service Plan
- Housing Investment Programme

Part D – Finance Procedure Rules

[TO FOLLOW]

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Part E – Contract Rules

Contract Procedure Rules

Why is this important?

These Contract Procedure Rules are intended to set out clear rules and processes for the purchase of works, goods and services. Following these Contract Procedure Rules will promote good procurement practice, help ensure the Council obtains value for money and ensure the Council complies with Public Procurement Legislation. Compliance with the Contract Procedure Rules will also help to protect the Council's staff and Members from undue criticism or allegations of wrongdoing.

What's covered in this Section?

The roles and responsibilities of:

- The Cabinet
- All Officers procuring goods, services and works on behalf of the Council

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Definitions

Part 1 Contract Procedure Rules which apply to ALL Contracts

1.1 Basic principles

- 1.1.1 Introduction
- 1.1.2 Scope
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Definitions

Award Criteria – the criteria set in order to examine the merits of each Bid received. Refer to Evaluation Matrix also.

BAFO – Best and Final Offer. This is a procedure to facilitate a final opportunity for Bidders to improve their Bids, which can include price, improvement in quality and/or a value added element.

Bid – a quotation or tender submitted in response to a Request for Quotation or Invitation to Tender issued by the Council.

Bidder – a contractor, supplier, provider or similar who submits a Bid.

Central Purchasing Body – A contracting authority (as defined in the Public Procurement Legislation) that provides centralised purchasing activities such as awarding contracts for works intended for other contracting authorities or the acquisition of supplies and/or services intended for use by other contracting authorities.

Commissioning Officer – an Officer who is requesting and / or is in need of the works, goods or services.

Commissioning and Procurement Board – a board of members and officers established to ensure a strategic commissioning approach in the Council and that procurement of goods, land and property achieves value for money in delivering the Council's corporate strategy and strategic priorities. The Board has detailed [Terms of Reference](#)

Concession – any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council, in return for the right to exploit the works that are the subject of the contract with or without payment;
- The delivery of services to the Council, in return for the right to exploit the services that are the subject of the contract with or without payment.

Contract – any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council;
- The purchase, leasing or hiring of goods or materials by the Council; or
- The delivery of services to the Council.

Contract Manager – an Officer of the Council (or in the case of a Contract where the service/goods/works are procured on behalf of another organisation an officer of that organisation) who has day to day responsibility for overseeing the delivery of the Contract requirements by the provider and

recording the performance of the provider against their performance criteria set out in the Contract.

CPU – Corporate Procurement Unit is the unit responsible for procurement activity within the Council.

Dynamic Purchasing System is similar to a Framework Agreement; however, the ability for providers to become party to the system and to be eligible to bid for Contracts awarded under it, remains open throughout its life.

Electronic Tendering Portal (E-tendering Portal) – a system for the issue and receipt of electronic tenders and quotations as designated by the Chief Operating Officer.

EU Threshold – the financial thresholds above which the Public Procurement Legislation applies to a proposed Contract. The Thresholds are updated every two years, with the next update being in January 2018. The Thresholds can be found at the following link: <https://www.ojeu.eu/thresholds.aspx> and are summarised below:

		Work Contract	
Central Government ⁴	£106,047 €135,000	£4,104,394 €5,225,000	£589,148 €750,000
Other contracting authorities	£164,176 €209,000	£4,104,394 €5,225,000	£589,148 €750,000
Small Lots	£62,842 €84,000	£785,530 €1,000,000	n/a

1. With the exception of the following services which have different thresholds or are exempt:
 - Social and other specific services (subject to the light touch regime) Article 74.
 - Subsidised services contracts specified under Article 15.
 - Research and development services under Article 14 (specified CPV codes are exempt).
2. With the exception of subsidised works contracts specified under Article 13.
3. As per Article 74. Services are listed in Annex XIV. Applying in Scotland from March 2016.
4. **Schedule 1** of the Public Contracts Regulations lists the Central Government Bodies subject to the WTO GPA. These thresholds will also apply to any successor bodies.

Evaluation Matrix – A document setting out the Award Criteria and weightings for a procurement process which reflect what is material to the award of a particular Contract and its importance. This document will be updated to capture scores during the evaluation of Bids.

Evaluation Panel – a group of Officers set up to undertake the evaluation of Bids. The number of Officers and relevant disciplines required will vary for each procurement.

Executive Director (or delegated representative) – the Chief Executive or any Director of the Council to whom there has been specific delegation by the Council or Cabinet or in writing by the Chief Executive.

Framework Agreement – any agreement between one or more contracting authorities and one or more providers, that establishes defined terms governing contracts to be awarded during a given period for:

- The carrying out of works;
- The purchase, leasing or hiring of goods or materials;
- The delivery of services;

Invitation to Tender (ITT) – refers to an invitation to providers to submit tenders for Contracts to provide goods, services or works valued at or above the EU Threshold.

Key Decision – As defined in the Glossary to the Constitution.

OJEU – Official Journal of the European Union.

Procurement Manager – the manager of the CPU. All references to Procurement Manager in the below text shall include their delegated representatives unless otherwise instructed.

Procurement Officer or Procuring Officer – an Officer of the CPU who shall undertake the appropriate procurement activities to provide the Commissioning Officer with their requirements.

Public Procurement Legislation – Legislation which regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the EU's public procurement market to competition, to prevent "buy national" policies and to promote the free movement of goods and services.

Request for Quotation – an invitation to providers to submit quotations for Contracts to provide goods, services or works valued between £25,000 and the relevant EU Threshold

Social Value – the duty under the Public Services (Social Value) Act to have regard to how what may be commissioned or procured will improve the economic, social and environmental wellbeing of the area.

Verifying Officer is an Officer who will confirm that the Form of Tender is signed and that terms and conditions are agreed by all providers. They may be an Officer of the CPU or an Officer of Legal Service.

Waiver – a process whereby approval may be granted to waive the requirements of competition (see Part 6).

Part 1: Contract Procedure Rules which apply to ALL Contracts

1.1 Basic Principles

1.1.1 Introduction

These Contract Procedure Rules (hereafter referred to as “these / the Rules”) are intended to promote good procurement and commissioning practice, transparency, public accountability and deter corruption in relation to the awarding of Contracts and Concessions and the conclusion of Framework Agreements and Dynamic Purchasing Systems. Following these Rules will result in open and transparent procurement processes and ensure compliance with Public Procurement Legislation.

Officers responsible for the procurement or commissioning of any goods, services, works or Concessions must comply with these Rules.

These Rules should be read in conjunction with the relevant parts of the Council’s Constitution and guidance issued by the Procurement Manager (and published on Centranet) following consultation and endorsement from the Commissioning and Procurement Board

All references to Contract(s) in the Rules below also include, Framework Agreements, Dynamic Purchasing Systems and Concessions unless otherwise instructed.

All Contracts, procurement documentation, and procurement processes shall be consistent with the Council’s Procurement Guides (available on Centranet), Procurement Strategy, and these Rules.

1.1.2 Scope

The Rules apply to all Contracts procured on the Council's behalf.

For the avoidance of doubt, these Rules shall **NOT** apply to any of the following:

- The sale, leasing or purchase of land or immovable property, or any interest in land;
- Any contract of employment;
- Loans;
- The issue, purchase or sale of securities or other financial instruments; (refer to the Section 151 Officer)

The competition and procedure elements of these Rules in Parts 2, 3 and 4 need not apply to any of the following situations, however, advice must be sought from Legal Services as to whether the arrangement meets the criteria set out below and to the most appropriate form of agreement to put in place:

- Contracts awarded to a contracting authority (as defined in relevant legislation) on the basis of an exclusive right which they enjoy pursuant to a law, regulation or published administrative provision compatible with the Treaty on the Functioning of the European Union (TFEU);
- Public-public co-operation, where the arrangement establishes or implements a

co-operation between the Council and one or more contracting authorities with the aim of ensuring that the public services they have to perform are provided with a view to achieving objectives they have in common, and implementation of the co-operation is governed solely by considerations relating to the public interest, and the parties concerned do not perform 20% or more of the activities concerned by the cooperation on the open market;

- Any contracts between the Council and any company that is controlled by the Council in a similar way to which it controls its own departments / services. Such companies must perform more than 80% of their activities for, or on behalf of, the Council (or other legal persons controlled by the Council or other contracting authorities e.g. for jointly owned companies). Such companies should also have no private capital participation in them other than where required by legislation (in which case the control must be non-controlling and non-blocking).

Commissioning additional supplies, services or works outside of the scope of any existing contractual arrangements from a company controlled by the Council should be subject to a business case and demonstrate value for money and steps must be taken to ensure the arrangement fits within the criteria detailed above. In the interest of best practice and demonstrating value for money, the Commissioning and / or Procuring Officer may wish to subject such contracts to competition.

1.1.3 **Legal Compliance**

All procurement procedures and Contracts shall comply with these Rules and all legal requirements and no Officer, or Member shall seek to avoid them.

The only exception is where a valid waiver is granted under Part 6 of these Rules.

If there is any dispute regarding these Rules, it should be taken up with the Procurement Manager who will seek appropriate advice to resolve the matter with Legal Services.

1.1.4 **Public Procurement Legislation**

All contracts must comply fully with the requirements of relevant Public Procurement Legislation.

1.1.5 **National and European Union Legislation (other than Public Procurement Legislation)**

Generally, National and European Union legislation must be adhered to and will override the application of these Rules. Where legislation contradicts these Rules (such as the de minimis provision within regulations issued under the Transport Act 1985 (as amended)), agreement should be reached between the Executive Director and Procurement Manager as to whether to apply the provision of that legislation ensuring that value for money is achieved.

1.1.6 **Applicable Principles**

In order to prevent the distortion of competition, the procurement and award of Contracts shall comply with the principles of transparency, equal treatment, non-discrimination and proportionality.

1.1.7 **Contracts where the Council acts as agent**

Where the Council acts as the agent for any of its wholly or partly owned companies or other local authority or public body or other company or organisation (Principal), these Rules shall apply unless the Principal in question instructs otherwise.

1.1.8 **Calculating the financial value of a procurement**

In determining the estimated value of the procurement, for the purpose of applying the relevant provisions within these Rules, the following should be taken into account:

- The total amount payable (net of VAT) for the lifetime of the Contract being procured including any proposed options or renewal periods;
- The aggregation of requirements with similar characteristics, or for the same type of goods, services or works, regardless of the number of Contracts that may be entered into or number of lots that the procurement may be split between for the duration of the Contract(s), especially where such aggregation means the value exceeds the relevant EU Threshold for goods, services or works;
- In the case of joint purchasing arrangements, the value shall be the aggregate of both parties' requirements that are the subject of the procurement.

No Officer or Member of the Council may seek to subdivide procurements, requisitions or individual spend amounts in order to avoid the application of these Rules or Public Procurement Legislation (in their entirety or in part).

1.2 Officer and Member Responsibilities

1.2.1 **Powers / authority**

All powers should be exercised through Officers and it should be noted that only Officers authorised in the relevant local scheme of delegation have the authority to commit the Council to any contractual obligations. (Members exercise their powers through Officers).

1.2.2 **Adequate Budget Provision**

Officers should not seek to enter into a Contract or purport to enter into a Contract, unless there is adequate provision in the agreed capital programme and/or agreed Revenue Budget for the relevant service.

1.2.3 **Corporate Contracts**

A Corporate Contract is a pre-existing Contract or Framework Agreement that has been set up for use by all Services (or specific Services) in the Council to address a

common or specific need and that allows Commissioning Officers to quickly and efficiently source those requirements without undertaking repetitive tendering exercises and to comply with aggregation rules of Public Procurement Legislation.

Prior to any procurement activity, the Commissioning Officer shall ascertain whether any Corporate Contract exists in relation to their requirements. Where such a Corporate Contract exists, it shall be best practice to utilise Corporate Contracts.

1.2.4 **Performance Bond or Parent Company Guarantee**

The Commissioning Officer, in discussion with the Procurement Officer, shall in respect of all Contracts consider the need for a performance bond or parent company guarantee after assessing the following factors:

- Potential risk to the Council in the absence of a bond or parent company guarantee;
- Known technical difficulties associated with the project;
- The financial status of the provider(s);
- Whether it is relevant and proportionate to the Contract;
- The period of the contract; and
- Any costs associated with the provision of the bond.

1.2.5 **Conflicts of interest**

A conflict of interest includes a situation where a relevant individual's financial, economic or personal interests might be perceived to compromise their impartiality and independence.

All Council employees (and third parties engaged on the Council's behalf) must take appropriate measures to effectively prevent, identify and remedy conflicts of interests. Any conflict of interest must be declared to the appropriate line managers within the Council as defined and in line with the Officer Code of Conduct.

1.3 Collaborative arrangements

1.3.1 **Framework Agreements**

Rules 2.1 and 3.1 will not apply where the requirements in question are to be procured by using a Framework Agreement which has itself been procured through compliance with these Rules or from a Central Purchasing Body or other Public Body.

Where a Framework Agreement is used, the Procurement Officer will undertake to check that the Framework Agreement is legally compliant and whether the Council is named in the OJEU notice for the Framework Agreement (either specifically or named within a grouping of regional local authorities) and therefore able to utilise that Framework Agreement.

The Procurement Officer must ensure that requirements are procured in accordance with the terms of the Framework Agreement (and where applicable Public

Procurement Legislation).

1.3.2 **Joint or partnering arrangements**

(a) Joint or partnering arrangements between the Council and other bodies shall be subject to the prior approval of the relevant Executive Director and in the case of arrangements with private entities also the Chief Executive.

(b) Advice from Legal Services must be sought as to the most appropriate form of agreement to put in place, especially where either party is undertaking work and / or tendering activity for the other, and entering into contracts on behalf of the other. Appropriate agreements may take many forms (for e.g. Memorandum of Understanding, Partnership Agreements, etc.) depending on the nature of the arrangements.

(c) Under any such agreement, where the Council is responsible for procuring any requirements, these Rules shall apply, regardless of who shall enter into the resultant contract.

(d) Under any such agreement, where another party is responsible for procuring any requirements, their contract procedure rules, or equivalent, shall apply, regardless of who shall enter into the resultant contract unless agreed otherwise. Where the other party has no such contract procedure rules, the procedure applied by the other body shall comply with the principles and safeguards contained in these Rules. The requirements of Public Procurement Legislation shall be adhered to where relevant.

(e) Under any such agreement, the terms and conditions for the arrangement shall include powers for the Council to have access to the records, assets, site, employees and sub-contractors of that party for the purposes of investigating or auditing compliance with the terms of the arrangement and with Public Procurement Legislation.

1.4 E-Procurement

1.4.1 **Electronic Tendering**

All tendering above the relevant EU Threshold (and for Contracts which are below the EU thresholds but higher than £25,000 in value) must be undertaken via an electronic tendering method and shall use the eE-tendering Portal accessible through the CPU. Where it is necessary to use another portal, prior approval must be sought on a tender-by-tender basis from the Procurement Manager.

1.5 Records

1.5.1 **Contracts Register**

As part of the Government's Transparency Agenda the Council is required to compile a contracts register to capture details of all live Contracts entered into by the Council ("Contracts Register"). The Contracts Register shall be controlled by the CPU and the Commissioning Officer must ensure that all Contracts above **£5,000** in value are

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recorded.

1.6 Expenditure approval process

1.6.1 Pre-Contract requirements

All Officers requiring to commit expenditure in order to acquire goods, services or works on behalf of the Council must:

- Consider the Social Value implications
- Make sure that the appropriate authority is in place to start the process and spend the money in accordance with the appropriate local scheme of delegation;
- Make sure that there is enough money in the budget to cover the total whole life financial commitment being made (including any consultants or other external charges or fees);
- Make sure that the Forward Plan and publicity requirements have been followed where the purchase is a Key Decision.

1.7 Sustainable Development

1.7.1 Sustainable development

The Council endeavours to consider how it can help achieve sustainable development through its work including social, environmental, economic and other relevant issues.

1.7.2 Social value

There is a duty to comply with the Public Services (Social Value) Act 2012. The Council will endeavour to consider and apply the provisions of the Act to all procurements regardless of their nature and value (although social value considerations (including any consultation) should be proportionate to the scale and nature of the Contract). Such consideration includes but is not limited to:

- a) How what is proposed to be procured might improve the economic, social and environmental well-being of the area of the Council; and
- b) How in conducting the process of procurement, the Council might act with a view to securing that improvement.

Officers must have regard to the Council's Social Value Policy available at [\[Cheshire East Council social value policy \(PDF, 350KB\)\]](#).

1.7.3 Community right to challenge

The Localism Act 2011 provides that under the 'community right to challenge', the

Council is to consider an expression of interest (EOI) submitted by a ‘relevant body’ in relation to providing or assisting in providing a service provided by or on behalf of the Council.

When the Council accepts an EOI it must run a procurement exercise and award any Contract following these Rules.

Part 2: Contract Procedure Rules concerning Contracts below the EU Threshold

2.1 Competition requirements

2.1.1 Advertising and procedure

Where the estimated costs of any requirements to be ordered on behalf of the Council is **less than the applicable EU Threshold** then proposals shall be invited as outlined below:

a)	Up to £10,000	3 quotes are advisable but not mandatory (local firms being preferable where appropriate)
b)	Between £10,000 and £25,000	A minimum of three quotations shall be sought, together with advice from the CPU or Legal Services on the appropriate form of Contract
c)	Between £25,000 and the applicable EU Threshold	A minimum of three quotations shall be sought via the E-tendering Portal, and/or Contracts Finder together with advice from the CPU or Legal Services on the appropriate form of Contract

Where compliance with (c) above is not possible due to less than 3 providers responding, authority to proceed with a procurement process must be obtained from the Procurement Manager.

The requirement in (c) to use the E-tendering Portal to advertise may be waived where there is an urgent need to do so. However, the Procurement Manager's written approval must be given to any such waiver.

Officers are permitted to sign up for subscriptions for membership of industry associations without the need for competition provided they consider that the subscription offers value for money and available budget provision.

2.1.2 Cross-border interest

When issuing Requests for Quotations for below EU Threshold Contracts, Officers

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should consider whether the Contract may be of interest to organisations / individuals in other EU Member States and explain any concerns to the Procurement Manager.

2.1.3 **Award Criteria**

Below EU Threshold Contracts will generally be awarded on the basis of MEAT (Most Economically Advantageous Tender) defined on the basis of price or cost using a cost effectiveness approach, and may include the best price – quality ratio, however, awards on the basis of lowest price shall be acceptable in certain circumstances.

The Award Criteria and their relative importance must be set out in the competition Request for Quotation documents.

2.1.4 **Best and Final Offer (BAFO)**

In certain circumstances it may be possible to provide for a BAFO stage in the procurement process and should only be used in consultation with Legal Services. Where the Procurement Officer and Commissioning Officer consider that a BAFO stage would be beneficial and could be exercised fairly in a procurement process, they should explain the reasons for the use of the BAFO process to the Procurement Manager, and seek approval to proceed from the Procurement Manager (who shall consult Legal Services).

Where a BAFO stage is used, it must be conducted by the CPU through the E-tendering Portal, and should set a deadline for submission of BAFOs, to be returned via the E-tendering Portal.

Where a BAFO is submitted, any improvements in a Bidder's offer must be recorded in the applicable Evaluation Matrix with Bidder's submissions re-scored where appropriate. A record of both pre and post BAFO scoring must be maintained for audit purposes.

Part 3: Contract Procedure Rules concerning Contracts at or above the EU Threshold

3.1 Competition requirements

3.1.1 **Advertising and procedure**

Procurement of Contracts over the EU Thresholds should be undertaken in accordance with the Public Procurement Legislation.

This includes the requirements in terms of advertisement of Contracts over the EU Threshold on Contracts Finder.

3.1.2 **Award Criteria**

Contracts will be awarded on the basis of MEAT (Most Economically Advantageous Tender) defined on the basis of price or cost using a cost effectiveness approach, and may include the best price – quality ratio. Where possible full lifecycle costs should be considered as part of the financial evaluation.

The Award Criteria and weightings must be set out in the Invitation to Tender.

3.2 Forms of procurement

- 3.2.1 The Public Procurement Legislation sets out the procedures which can be used to procure Contracts at or exceeding the EU Thresholds. These include:
- a) Open Procedure
 - b) Restricted Procedure
 - c) Competitive Procedure with Negotiation
 - d) Competitive Dialogue
 - e) Innovation Partnerships
 - f) Call Off from a Framework Agreement

Other procedures are possible for Contracts for Light Touch Regime Services (as defined in Public Procurement Legislation) and for Concessions Contracts.

- 3.2.2 The Procurement Officer in consultation with the Commissioning Officer and Legal Services shall select the most appropriate procedure having regard to the requirements of the Public Procurement Legislation.
- 3.2.3 This process shall not remove or modify the responsibility of the relevant Executive Director to take such steps as may be reasonably necessary to safeguard the Council's best interests.
- 3.2.4 In order to determine a suitable procurement approach to a specific market, Officers, in liaison with CPU, may first choose to carry out non-committal soft market testing in order to inform the market of the Council's procurement plans and to understand the likely level of interest. Any such testing should not have the effect of distorting competition or result in a violation of the principles of non-discrimination or transparency.

Part 4: Contract Procedure Rules: Procedures for ALL Requests for Quotation and Invitations to Tender

4.1 Application and documentation

4.1.1 Application

This Part 4 applies to all Contracts over £25,000 in value (including those at or above the relevant EU Threshold).

Procurement procedures for Contracts below £25,000 will follow any guidance issued by CPU and will be assessed on their risk.

4.1.2 Documentation

All Requests for Quotations (RFQs) and Invitations to Tender (ITTs) shall include the

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following:

(i) The Council must issue RFQs and ITTs and receive Bids via the E-tendering Portal. Bids submitted by any other means shall not be considered.

(ii) A requirement for Bidders to complete fully and sign or otherwise authorise the Form of Tender, which relates to canvassing and non-collusion before submission.

(iii) All electronic responses will be held within the E-tendering Portal in a restricted area that is only accessible by the appointed Verifying Officer after the specified fixed time and date.

(iv) All RFQs and ITTs must specify the goods, works or services that are required in sufficient detail to enable the submission of competitive Bids, together with the terms and conditions of the contract that will apply.

(v) A description of the award procedure and a definition of the Award Criteria and weightings in objective terms. Where it is not possible to provide weightings for objective reasons, Award Criteria should be stated in descending order of importance.

(vi) Notification that Bids are submitted to the Council on the basis that they are compiled at the Bidder's risk and expense (except where prior agreement is given to reimburse those Bidders / providers engaged in a competitive dialogue or competitive procedure with negotiation).

(vii) Notification that amendments must not be made to the contract documents by the Bidder (unless appropriate for the procurement procedure).

4.1.3 A record of Bids received in pursuance of these Rules shall be maintained by the CPU and retained in accordance with the Council's retention schedule.

4.1.4 An electronic contracts register will be maintained by the CPU and copies of Contracts are to be provided to Legal Services for retention.

4.2 Closing date for receipt of Bids

4.2.1 Bids received after the fixed date and appointed time, shall NOT be opened or considered, unless there are exceptional circumstances as agreed by the Procurement Manager, who will consult with Legal Services where appropriate.

An exceptional circumstance could be a system problem (of which there must be demonstrable evidence) with the E-tendering Portal which has prevented potential Bidders from uploading their response documents.

4.3 Method of opening Bids

4.3.1 In respect of Bids received electronically, ONLY a Verifying Officer as designated within the E-tendering Portal will have permission to open the Bids.

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- (i) Bids above £1,000,000 will be verified by Legal Services.
- (ii) Bids from the EU Threshold up to £1,000,000 will be verified by the Procurement Manager or a Category Manager that has not been involved in the tender in question.
- (iii) Bids between £25,000 and the EU Threshold will be verified by a Procurement Officer that has not been involved in the procurement process in question.
- (iv) Bids between £10,000 and £25,000 will be opened in accordance with any guidance issued by CPU from time to time.

4.4 Evaluation of Bids

4.4.1 Evaluation and award

Bids shall be evaluated and awarded on the basis of the value for money they offer to the Council.

For Bids over the EU Threshold this must be in line with:-

- (a) MEAT (*Most Economically Advantageous Tender*) Principles. Award Criteria must be relevant to the Contract and apportioned between cost and quality in a ratio reflecting the risk and value of the contract.
- (b) Bids shall be evaluated and awarded in accordance with Award Criteria and weightings determined, and documented in an Evaluation Matrix, which must not be changed at any time during the process.
- (c) The relevant Public Procurement Legislation should be considered in determining what shall be included in the evaluation of cost.

4.4.2 Evaluation Panel

(a) Evaluation Panels should be established prior to the issue of the RFQ/ITT, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

(b) Evaluation Panels should include representation from the CPU, the commissioning department/key stakeholders, and should consist of a minimum of two Officers. However, should the risk be assessed as significant then the minimum number of people on the panel should be increased proportionately and in accordance with more detailed guidance from CPU.

4.4.3 Evaluation Matrix

(a) The Evaluation Matrix will consist of defined evaluation criteria and weightings.

(b) All Bids must be scored consistently against the Award Criteria set out in the Evaluation Matrix in the RFQ/ITT using the scoring model also set out in the RFQ/ITT.

(c) All scores and notes made by the Evaluation Panel must be recorded in writing in the Evaluation Matrix and used for reference if further moderation is required.

4.4.4 Moderation

(a) The Evaluation Panel will discuss their individual scores and must reach agreement on a consensus panel score and justifying comments.

(b) Any consensus scores and applicable justifying comments must be recorded in the Evaluation Matrix for the procurement process.

(c) All notes may be the subject of information requests or legal challenge against award of a Contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant Award Criteria.

4.4.5 **Clarification**

(a) Where post Bid clarification is required, it must be requested (and responses returned) via the E-tendering Portal. Importantly, post Bid clarification may only be sought in relation to an element of the Bidder's submission that has been provided, and which needs further understanding. Post Bid clarification must be used in a non-discriminatory manner and so that Bidders are not being given an opportunity to improve their Bids.

(b) Evaluation scores can only be amended where specific clarification has been requested relating to the Award Criteria. Any decision to rescore must be discussed with the Procurement Manager.

(c) All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

(d) For above EU Threshold procurements, post Bid negotiation will not be accepted unless permitted within the procedure available within Public Procurement Legislation.

(e) For Contracts below the EU Thresholds in value, a best and final offer (BAFO) stage may be used. Refer to Rule 2.1.3.

4.5 Acceptance of Bids

4.5.1 **Approval process**

Bids may be accepted by the relevant Executive Director provided that all of the following apply:-

(i) the Bid complies with the requirements, conditions and criteria set down in any OJEU notice (where applicable) and in the RFQ/ITT including any applicable selection criteria and Award Criteria;

(ii) the Bid proposed to be accepted is the most economically advantageous tender (or, where appropriate for Contracts below the EU Threshold, is the lowest priced Bid);

(iii) where a Bid for a Contract above the EU Threshold appears abnormally low, the Bidder has been asked to explain the price or cost and the Council considers the explanation provided to satisfactorily account for the low price or cost; and

(iv) Cabinet approval has been given where the tender is a Key Decision.

4.5.2 **Debrief – intention and award**

Once the award decision has been approved by the Officer with appropriate delegated authority, communication should be undertaken with all Bidders, providing details on

the outcome of the procurement process.

For Bids above EU Thresholds, the provisions of the Public Procurement Legislation shall be followed regarding the content of notifications to Bidders and including any mandatory standstill periods outlined.

4.6 Errors in Tender

- 4.6.1 If, before both parties have executed the Contract, it is discovered that an error has been made in the Bid it shall be dealt with as follows:-
- The Procurement Manager should be consulted (who should consult Legal Services as necessary);
 - The Bidder should be given the opportunity of confirming or withdrawing the Bid. In the case of genuine and obvious errors the Bidder may be given the opportunity to correct the error. The same approach should be taken to all Bids.
- 4.6.2 Clarification surrounding such errors shall be sought in writing via the E-tendering Portal.
- 4.6.3 Where the Bidder elects to withdraw the Bid the next highest scoring Bid shall be considered and the same rules shall be applied in considering that Bid.

Part 5 Contract Procedure Rules - Contracts and post procurement requirements

5.1.1 Conditions of Contract

Every Bid will be accompanied by the relevant conditions of contract which will either be supplied by CPU or Legal Services. In every written Contract there are certain clauses which must be inserted. These clauses are identified in the standard form contracts produced for use by the Council and may be amended by Legal Services from time to time. The removal of these clauses requires agreement by Legal Services.

5.1.2 Signed Contracts

Subject to 5.1.3, Contracts (with a value not exceeding £1,000,000) shall be signed on behalf of the Council by a duly authorised Officer in accordance with the local Scheme of Delegation.

5.1.3 Contract Sealing

A Contract must be executed under seal by Legal Services where any of the following apply to the Contract:

- It exceeds £1 million in value;
- Where the Contract is such that Legal Services consider that the extended limitation period of 12 years would be of value;
- Where it is required by statute or an external funding body that it is executed

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- under seal;
- Where the price paid or received under the Contract is a nominal price and does not reflect the value of the goods, services or works;
- Where it is a construction-related or works Contract and it is required to be sealed in accordance with guidance issued by CPU.

5.1.4 Contract payments / settlements

Contract payments / settlements shall be made in accordance with procedures referred to in the Finance Procedure Rules.

5.1.5 Authorisation of payments

Payments shall be approved by an authorised Officer in accordance with the local Scheme of Delegation.

5.1.6 Modification to Contracts

Modifications to a Contract shall be in writing and shall be authorised by the appropriate Executive Director or on their behalf by an authorised Officer with agreement from the Procurement Manager and Legal Services. Such agreement will be dependent upon commercial considerations as well as considering if the modification is permitted under Public Procurement Legislation and the completion of any required documents as issued by the CPU from time to time.

5.1.7 Payments before completion of formal Contract

No payment shall be made by the Council to the provider without a formal purchase order or an appropriate Contract in place. Payments should normally be made following the receipt of the requirements / achievement of desired outcomes.

Staged payments are permitted. Any such payments should only be made upon receipt of the desired requirements for that stage / milestone. Should the desired requirements / outcomes not be achieved when the provider submits an invoice, a dispute should be raised to prevent payment until such time as the desired requirements / outcomes have been achieved.

Advance payments are generally not permitted and the only exceptions without further approvals being required, shall be for:

- Software Licences;
- Hardware and / or Software Support and / or Maintenance;
- Warranties;
- Deposits;
- Leases / Hires.

If any other reason arises for an advance payment to be made, approval must be sought from the relevant Executive Director and the Director of Legal Services.

5.1.8 Monitoring of Contracts

All Contracts should be monitored throughout the period of the Contract, and the performance of providers should be reviewed regularly, including

- How savings might be achieved within the contract period;
- Compliance with the specification and contract;
- Performance;
- Any best value requirements;
- Levels of insurance,
- User satisfaction; and
- Risk Management;

Accurate records of Contract monitoring activity and meetings including any issues raised / dealt with must be kept by the Commissioning Officers responsible for monitoring the Contract.

5.1.9 **Contract extensions**

- a) Commissioning Officers and Contract Managers must consider a provider's performance throughout the period of a Contract when considering a contract extension. Officers should question whether the quality of goods or services being provided to the Council would continue to offer best value should an extension be agreed. When reviewing performance for the purpose of Contract extension, Officers should seek the views of the provider as to whether they have any suggestions or proposals which might improve value or delivery of service which might benefit the Council. These Officers should be aware of the market, the providers within the market, and the level of competition within the market.

Commissioning Officers should consider alongside the award of any optional extension period provided for in the Contract, what other alternatives may be available to the Council, and should offer reasoning as to why such alternatives are not proposed.

These Officers must ensure that prior to seeking approval of any proposed Contract extension; consultation is undertaken with the Procurement Manager and a Contract Extension Form is completed and signed by the Executive Director.

Contracts may be extended beyond the stated core Contract period, where provision for such extension was included in the RFQ/ITT, and in respect of above EU threshold Contracts, the relevant OJEU Notices.

- b) It is not possible to extend a Contract, after expiry. Any such requests will be viewed as new Contracts and the relevant provisions with these Rules must be followed.
- c) Any requests to extend a Contract where there is no provision to extend for the period requested constitutes a modification to the contract and the appropriate provisions at Rule 5.1.6 must be followed.

Part 6 Contract Procedure Rules: Waiver and breach

6.1 **Waiver**

6.1.1 **Waiver process**

It is strongly expected that these Rules will be followed in all cases with very limited exceptions, however, in the event a Commissioning Officer believes a waiver to these Rules is essential to the efficient running of the Service they must seek a waiver by producing a report that must be approved:

- a) In the case of contracts with a value up to £25,000 by the Head of Procurement, and
- b) In the case of contracts with a value in excess of £25,000 by the Chief Finance Officer and the Director of Legal Services.

The report must be in accordance with the prescribed format available from the CPU. The format of the report shall be determined by the Procurement Manager, and must be used in line with any associated guidance published:

- (a) Advice and guidance must be sought from the Procurement Manager prior to submission of the waiver form to the S.151 Officer and Director of Legal Services. If approval is granted, it is still required that an appropriate contract be entered into prior to any requirements being provided by the provider.
- (b) The waiver of these Rules and the reason(s) for waiver shall be clearly recorded and reported to the Commissioning and Procurement Board.
- (c) All notices of waiver reported to the Procurement shall be published retrospectively for information on the next appropriate Audit and Governance Committee agenda.

The only exception to the above is for instances of **extreme urgency**, where there is an **immediate** risk to **life, property** or an **individual's safety and wellbeing**, and any inaction by the Council (related to risks to safety and wellbeing) would be a breach of our statutory duty and obligations. The agreement of the Procurement Manager must be sought prior to any action being taken except where the nature of the urgency and risk renders this impractical. Such instances must be reported at the earliest opportunity, retrospectively, to the S.151 Officer and Director of Legal Services and the relevant Executive Director following the incident.

6.2 Breach of Contract Procedure Rules

6.2.1 Breach

No Officer or Member, may seek to actively avoid the application of these Rules without following the necessary waiver process outlined within these Rules.

Officers and Members must be aware that any non-adherence with these Rules is a breach of the Officer Code of Conduct / Member Code of Conduct and could result in disciplinary action being taken against them.

Service Directors are responsible for ensuring that their Commissioning Officers are made aware of the consequences of non-adherence and that they comply with these Rules.

6.2.2 Reporting and investigating breaches

Any breach of, or non-adherence to these Rules, must, on discovery, be reported immediately to the Section 151 Officer. The Executive Director or his/her designated representative shall complete the waiver process (detailed at 6.1 above) outlining the reasons for the non-adherence and the steps taken to prevent a re-occurrence.

The Executive Director or his/her designated representative will be required to submit the form for sign off by the Section 151 Officer and the Director of Legal Services.

Any such breaches will be reported to the Commissioning and Procurement Board

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setting out the number of non-adherence instances in the previous period and broken down by service and exceptional instance, following which all such notices reported to the Commissioning and Procurement Board shall be published retrospectively for information on the appropriate Audit and Governance Committee agenda.

The S.151 Officer and Director of Legal Services shall consider whether each reported breach or non-adherence presents a significant risk of harm to the Council's interests and if satisfied that such risk exists, shall undertake any necessary investigation and report the findings to the relevant Executive Director and the Chief Executive.

Part F – Employment Rules

1 General

1.1 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.

1.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.

1.3 Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.

1.4 The Council will provide the necessary resources to support the appointed officer structure. Officers may be employees and other persons engaged on temporary contracts, consultancy arrangements or other appropriate terms.

1.5 Generally (except for certain senior staff appointments) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

2 Recruitment and Appointment of Staff

2.1 Any candidate for any designation or appointment with the Council who knows that he/she is related to a Member or employee of the Council shall, when making application, disclose, in writing, that relationship to the Head of Strategic HR. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.

2.2 Every Member and employee of the Council shall disclose to the Head of Strategic HR any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.

2.3 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council, but may give a written testimonial of a candidate's ability, experience or character.

2.4 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.

2.5 In the case of a dispute under paragraph 2.4 above about the status of a relationship in relation to an appointment, the Head of Strategic HR will rule and such ruling will be applied.

2.7 The Head of Strategic HR will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

3 Responsibility of the Staffing Committee

3.1 In addition to these rules, the responsibilities of the Staffing Committee are set out in the Staffing Committee's Terms of Reference under the "Responsibilities for Functions" Section of this Constitution.

3.2 Subject to the provisions of these Rules, the Committee is responsible for hearing and determining appeals as set out in the Staffing Committee terms of reference under the Council's employment-related policies. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.

3.3 The Cabinet Member with responsibilities for individual Departments or Services and the associated resources is required to ensure that corporate personnel policies and procedures are applied by the Council, including training, matters relating to discipline, workforce performance management, and grievance.

4 Appointment of Head of the Paid Service

4.1 The appointment of Head of the Paid Service is subject to specific requirements as set out below.

4.2 Where the Council proposes to appoint to the Head of the Paid Service, the Staffing Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one Member of the Cabinet in its membership.

4.4 The Staffing Committee shall:

- draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
- where it is not proposed to appoint from existing employees, 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;
- make arrangements for a copy of the statement mentioned above to be sent to any person on request;
- where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.

4.5 Following the interview of candidates, the Committee will come to a view as to the most suitable person to recommend for the position.

4.6 The Committee must advise the Head of Strategic HR of:

- the name of the person in question;
- any other particulars which the Committee consider are relevant to the appointment.

4.7 Within two clear working days of receiving the notification in 4.6 above, the Head of Strategic HR will notify each Member of the Cabinet of:

- the information notified under paragraph 4.6 above;
- 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 Head of Strategic HR; such period shall not exceed five clear working days.

4.8 An offer of appointment must wait until:

- the Leader has, within the period of the notice under paragraph 4.6 above, notified the Committee through the Head of Strategic HR that neither he/she nor any Member of the Cabinet has any objection to the making of the offer; or
- the Head of Strategic HR has notified the Committee that no objections have been received by her within the period of the notice under 4.7 above; or
- the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Director of Legal Services shall be sought.

4.5 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment to the next meeting of the full Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.

4.6 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.

4.7 Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

5.0 Dismissal of Head of Paid Service, Statutory Chief Officers and Executive Director of Place

5.1 The provisions of Clause 1.5 shall not apply to any proposal to dismiss the Head of Paid Service, Statutory Chief Officers or the Executive Director of Place. This shall be the responsibility of the Staffing Committee, save that any dismissal of Head of Paid Service, the Section 151 Officer or Monitoring Officer must be approved by full Council, following a decision of the Investigation and Disciplinary Committee and consideration by the

Independent Persons Panel. Any disciplinary action short of dismissal against the Head of Paid Service, Section 151 Officer, or Monitoring Officer shall be the responsibility of the Investigation and Disciplinary Committee.

5.2 For the avoidance of doubt, action short of dismissal against the Head of Paid Service, Section 151 Officer, or Monitoring Officer shall include a decision to suspend the same. Such a decision shall be the responsibility of the Investigation and Disciplinary Committee.

5.3 The Investigation and Disciplinary Committee is designated as the Committee discharging, on behalf of the Council, the function of discipline and dismissal of the Head of the Paid Service, Section 151 Officer, or Monitoring Officer. The full Council must however approve that dismissal before notice of dismissal is given to him/her.

5.4 Notice of dismissal of the Head of the Paid Service, Section 151 Officer, or Monitoring Officer must not be given until:

(a) the Investigation and Disciplinary Committee has notified the Head of Strategic HR that it wishes to dismiss the officer and any other particulars which the Investigation and Disciplinary Committee considers are relevant to the dismissal;

(b) the Head of Strategic HR has notified every member of the Cabinet of:

- (i) the fact that the Investigation and Disciplinary Committee wishes to dismiss the officer;
- (ii) any other particulars relevant to the dismissal which the Investigation and Disciplinary Committee has notified to the Head of Strategic HR;
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Strategic HR; and

(c) either –

- (i) the Leader has within the period specified in the notice under sub-paragraph (b) (iii), notified the Head of Strategic HR that neither he/she nor any member of the Cabinet has any objection to the dismissal;
- (ii) the Head of Strategic HR has notified the Investigation and Disciplinary Committee that no objection was received by him/her within that period from the Leader on behalf of the Cabinet to the Head of Strategic HR;
- (iii) the Investigation and Disciplinary Committee is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Legal Services (or, if appropriate an alternative legal adviser) should be sought.

5.5 Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Investigation and Disciplinary Committee will:

- (a) follow the procedure set out in paragraph 5.6; and
- (b) recommend the dismissal to a meeting of the full Council.

5.6 (a) This procedure applies if the Investigation and Disciplinary Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Section 151 Officer or Monitoring Officer.

(b) Where this procedure applies, the Investigation and Disciplinary Committee will provide the Independent Persons Panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Investigation and Disciplinary Committee considers appropriate or that the Panel may reasonably require. The Investigation and Disciplinary Committee may invite the Independent Persons Panel to attend any disciplinary or capability hearing.

(c) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the full Council.

(d) The Council may pay such remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate but the payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of his or her role as an independent person under the Localism Act 2011.

(e) Full Council will not meet to consider whether or not to approve the proposal of the Investigation and Disciplinary Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.

(f) Before full Council takes a vote at a meeting on whether or not to approve such a dismissal, they must take into account, in particular—

- (i) any advice, views or recommendations of the Independent Persons Panel;
- (ii) the conclusions of any investigation into the proposed dismissal; and
- (iii) any representations from the officer.

5.7 If the full Council approve the recommendation of the Investigation and Disciplinary Committee, then notice of dismissal can be issued. Where the full Council do not approve the recommendation, they shall indicate how they wish to proceed

5.8 The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended will be followed.

6.0 Other Chief Officers and Deputy Chief Officers

6.1 The offer of appointment for:

- (a) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
 - (b) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- or
- (c) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;

must not be made by the appointor until--

(a) the appointor has notified the Head of Strategic HR 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 Head of Strategic HR has notified every member of the executive of the authority of--

- (i) the name of the person to whom the appointor wishes to make the offer;

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- (ii) any other particulars relevant to the appointment which the appointor has notified to the Head of Strategic HR; and
- (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the Head of Strategic HR; and

(c) either--

- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any other member of the executive has any objection to the making of the offer;
- (ii) the Head of Strategic HR has notified the appointor that no objection was received by him/her within that period from the executive leader; or
- (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

6.2 In this paragraph, "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, notice of the dismissal of:

- (a) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
- (b) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- or
- (c) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;

must not be given by the dismissor until--

- (a) the dismissor has notified the Head of Strategic HR 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 Head of Strategic HR has notified every member of the executive 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 Head of Strategic HR; and
- (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Head of Strategic HR; and

(c) either--

- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the executive has any objection to the dismissal;
- (ii) the Head of Strategic HR has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
- (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.