

## **PART 4**

### **RULES OF PROCEDURE**

<b>Section 1</b>	<b>Standing Orders for Meetings</b>
<b>Section 2</b>	<b>Access to Information Procedure Rules</b>
<b>Section 3</b>	<b>Budget and Policy Framework Procedure Rules</b>
<b>Section 4</b>	<b>Cabinet Procedure Rules</b>
<b>Section 5</b>	<b>Overview and Scrutiny Procedure Rules</b>
<b>Section 6</b>	<b>Financial Procedure Rules</b>
<b>Section 7</b>	<b>Contract Procedure Rules</b>
<b>Section 8</b>	<b>Employment Procedure Rules</b>
<b>Section 9</b>	<b>Recommended Periods for the Retention of Documents</b>

## **PART 4 - SECTION 1 – STANDING ORDERS FOR MEETINGS**

### **CONTENTS**

#### **Rule**

1. Annual meeting of the Council
2. Ordinary meetings
3. Election of Leader of the Council
4. Vote of No Confidence in the Leader of the Council
5. Extraordinary meetings
6. Time and place of meetings
7. Notice of and summons to meetings
8. Chair of meetings
9. Quorum
10. Duration of meeting
11. Questions by members
12. Report of the Leader of the Council
13. Motions on notice
14. Motions without notice
15. Rules of debate
16. Voting
17. Minutes
18. Record of attendance
19. Exclusion of public
20. Councillors conduct
21. Disturbance by public
22. Suspension and amendment of Council Procedure Rules

23. Delegation
24. Substitute Members
25. Reports of Officers
26. Urgent Action
27. Interests of Councillors in Contracts and Other Matters
28. Interest of Employees and Councillors in Contacts etc,
29. Procedure Rules to be given to Councillors
30. Inspection of documents
31. Inspection of land, premises etc. by Councillors
32. Application to Committees and Sub-Committees
33. Determination of Planning Applications by the Planning Committee contrary to officer recommendations

## **1.0 ANNUAL MEETING OF THE COUNCIL**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will ordinarily take place in May.

The Annual Meeting will:

- (i) elect a person to preside if the Chair and Vice-Chair of Council are not present;
- (ii) consider priority business;
- (iii) elect the Chair of the Council;
- (iv) elect the Vice-Chair of the Council;
- (v) approve the minutes of the last meeting;
- (vi) receive any apologies for non-attendance;
- (vii) receive any declarations of interest;
- (viii) at its first post election Annual Meeting, appoint a Leader of the Council for a term of office expiring at the next post election annual meeting (unless resigned, removed or disqualified from office in accordance with the Constitution);
- (ix) following his/her election the duly elected Leader of the Council shall assume the full powers of the Leader and will appoint a Deputy Leader of the Council who, in their absence or following a vote of no confidence (see paragraph 4.0 of this Article) will act as Leader, and advise the Council of the members they intend to appoint to the Cabinet;
- (x) appoint the Overview and Scrutiny Committee, the Audit and Member Standards Committee, the Planning Committee, the Employment Committee, the Regulatory and Licensing Committee and such other committees as the Council considers appropriate to deal with matters which are not reserved to the Council and are not Cabinet functions (as set out in Part 3 of this Constitution);
- (xi) agree the scheme of delegation for those matters not reserved to the Council and are not Cabinet functions (as set out in Part 3 of this Constitution);
- (xii) consider any business set out in the notice convening the meeting; and

(xiii) receive any announcements from the Chair.

## **1.1 Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council will:

- (i) decide which committees and sub-committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint the Chair, Vice-Chair and members to committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **2.0 ORDINARY MEETINGS**

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

- (i) elect a person to preside if the Chair and Vice-Chair are not present;
- (ii) consider priority business;
- (iii) approve the minutes of the last meeting;
- (iv) apologies for absence;
- (v) receive any declarations of interest from members;
- (vi) questions pursuant to Council Procedure Rule 11.4;
  
- (vii) receive a report from the Leader of the Council and receive questions and answers thereon in accordance with Council Procedure Rule 11;
- (viii) receive reports from the Cabinet and statutory officers and receive questions and answers on any of those reports;
- (ix) receive minutes from the Council's Committees and receive questions and answers on any of those minutes;

- (x) consider motions;
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate;
- (xii) receive the Chair's announcements.

### **3.0 ELECTION OF LEADER OF THE COUNCIL**

**3.1** The Monitoring Officer will conduct the vote for the election of the Leader of the Council in accordance with the following procedure:

- (i) each member present at the time will have one vote;
- (ii) the vote will be taken by way of a named vote (roll call) and recorded in the minutes;
- (iii) the Chief Executive will call out the name of each nominated person in alphabetical order and invite Members to vote according to their preference; alternatively they may, if they wish, abstain;
- (iv) at the conclusion of the vote the Chief Executive will announce the number of votes cast for each nominated person. If any one nominated person receives an overall majority of the votes cast (abstentions will not be counted), they will be declared the winner and be elected as the Leader of the Council;
- (v) if no one nominated person receives an overall majority of the votes cast, then the nominated person receiving the least number of votes will be eliminated;
- (vi) the Monitoring Officer will then invite further round(s) of voting as necessary in accordance with the procedures set out in paragraphs 3.1 (i) to 3.1 (v) above until one nominated person receives an overall majority, for which any abstentions will not be counted;
- (vii) any member not present at the start of the first vote (iii) will not be entitled to a vote at a later round (vi) even if they have joined the meeting by that stage.

**3.2** Paragraphs (ii) and (iii) will be waived if only one nomination is made. Voting will then be by a show of hands.

#### **4.0 VOTE OF NO CONFIDENCE IN THE LEADER OF THE COUNCIL**

- 4.1** Any motion of no confidence in the Leader of the Council must be received by the Chief Executive by no later than 10 clear working days before the meeting of the Council to which it is to be submitted. The motion must be signed by at least 15 members of the Council and must set out the reasons why the signatories have concluded that a vote of no confidence in the Leader is required.
- 4.2** The motion will be listed first on the agenda.
- 4.3** No amendments to a motion calling for a vote of no-confidence motion in the Leader of the Council will be allowed.
- 4.4** Each member present at the time will have one vote.
- 4.5** Voting will be by way of a named vote (roll call) recorded in the minutes.
- 4.6** In order to carry the motion, at least two thirds overall majority of those members present will be required.
- 4.7** In the event of the motion being carried, the Deputy Leader of the Council will assume the full powers of the Leader of the Council until a new Leader of the Council is appointed by the Council.

#### **5.0 CALLING EXTRAORDINARY MEETINGS**

- 5.1** Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:
- (i) the Council by resolution;
  - (ii) the Chair of the Council;
  - (iii) the Monitoring Officer;
  - (iv) the Appointments Committee for the purposes of appointing a new chief executive or other statutory officer
  - (v) any five members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **6.0 TIME AND PLACE OF MEETINGS**

- 6.1** The time and place of meetings will be determined by the Chief Executive and notified in the summons.

## **7.0 NOTICE OF AND SUMMONS TO MEETINGS**

**7.1** The Chief Executive (in the case of Full Council meetings) or the Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive (for Full Council meeting) or the Monitoring Officer will send a summons signed by them to every councillor. The summons will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **8.0 CHAIR OF MEETING**

**8.1** The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chair of committees and sub-committees.

## **9.0 QUORUM**

**9.1** The quorum of a meeting will be the whole number immediately greater than or equal to one quarter of the whole number of members or 3 whichever is the greater. See also Rule 32 (c) in relation to Committees and Sub-Committees. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **10.0 DURATION OF MEETING**

**10.1** Unless the majority of councillors present vote for the meeting to continue, any meeting shall stand adjourned after three hours provided that, if there is a quorum present and in the opinion of the Chair the matters remaining to be considered are either of such importance that it's in the interest of the Council that the consideration thereof should then take place or that the extension of time required is minimal, councillors may consent to the continuation of the meeting. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **11.0 QUESTIONS BY MEMBERS**

### **11.1 On Reports of the Cabinet or Committees**

A member of the Council may ask the Leader or appropriate Cabinet Member or the Chair of a Committee any question without notice upon an item of the report of the Cabinet or by a Committee when that item is being received or under consideration (including debate) by the Council.

### **11.2 Questions on Notice at Full Council**

Subject to Rule 11.4, a Councillor may ask:



- the Chair;
- a member of the Cabinet;
- the Chair of any committee, sub-committee or panel;

a question on any matter in relation to which the Council has powers or duties or which affects the District of Lichfield.

### **11.3 Questions on notice at Committees and Sub-committees**

Subject to Rule 11.4, a member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the District of Lichfield and which falls within the terms of reference of that committee or sub-committee.

### **11.4 Notice of questions**

A member may only ask a question under Rule 11.2 or 11.3 if either:

- it is received by 12 noon at least two working days' prior to the meeting in writing or by email of the question to the clerk; or
- the question relates to urgent matters, they have the consent of the Cabinet Member/Chair to whom the question is to be put, and the content of the question is given to the Chief Executive by 10.00 a.m. on the day of the meeting. Every question shall be put and answered without discussion but the person to whom the question has been put may decline to answer.

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the District;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.

### **11.5 Response**

An answer may be:

- in writing available prior to the meeting;

- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given at the meeting, a written answer circulated to all members as soon as is practicable.

#### **11.6 Supplementary Question**

A member having given notice of a question under Procedure Rule 11.2 and having received a reply under paragraph 11.5 may ask one supplementary question on the point of the original question. The response to the supplementary question shall be made in accordance with Procedure Rule 11.5.

#### **11.7 No debate on questions**

There shall be no debate on a question submitted under Procedure Rule 11.2 or on a supplementary question under Procedure Rule 11.6. A questioner may request that the matter under question be referred to the appropriate committee or sub-committee, if such a request is made the Chair will ask for a seconder to the proposal; the seconder will have no right to speak on the proposal. The Member responding to the question shall have the right to comment on the proposed referral. The question will then be put to the vote without further debate.

- 11.8** A member may not submit a question under Council Procedure Rule 11 relating to an individual determination made by the Planning; Regulatory and Licensing; or Audit and Member Standards Committees or any sub-committee thereof, or taken under powers delegated therefrom.

#### **12.0 REPORT OF THE LEADER OF THE COUNCIL**

- 12.1** The Leader of the Council shall at each ordinary meeting of the Council submit a report on the work of the Cabinet and shall be open to question thereon.

- 12.2** The Leader of the Council may invite (a) representative(s) of a partner organisation(s) to address the Council in respect of any matters referred to in the Leader's report relating to partnership working between the Council and the organisation(s).

- 12.3** A member of the Council may, at the discretion of the Chair, ask the Leader of the Council a question relating to a matter referred to in the Leader's report to Council and may, after having the response from the Leader (or at the Leader's discretion the relevant Cabinet Member, or representative of a partner organisation) ask one supplementary question on the point of the original question.

- 12.4** A member of the Council may question the Leader once (with the provision for a supplementary question) on each item in the Leader's report.

**12.5** An answer by the Leader of the Council may take the form of:

- (a) a direct oral answer by the Leader of the Council;
- (b) a direct oral answer by a Cabinet Member with responsibility for the matter subject to question;
- (c) a direct oral answer from a representative of a partner organisation invited by the Leader of the Council to respond;
- (d) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (e) where the reply cannot conveniently be given orally, a written answer circulated to all members.

**12.6** There shall be no debate on a question submitted under Procedure Rule 12.3. A questioner may request that the matter under question be referred to the Cabinet or appropriate committee or sub-committee, if such a request is made the Chair will ask for a seconder to the proposal, the seconder will have no right to speak on the proposal; the Member of the Council, in responding to the question shall have the right to comment on the proposed referral. The question will then be put to the vote without further debate.

## **13.0 MOTIONS ON NOTICE**

### **13.1 Notice**

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by a councillor, must be delivered to the Chief Executive not later than six clear days before the date of the meeting. These will be entered in a book open to public inspection and maintained by the Monitoring Officer.

The Chief Executive may reject a motion if it:

- (i) is not about a matter for which the Council has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- (iv) requires the disclosure of confidential or exempt information.

### **13.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.

### **13.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the District of Lichfield.

### **13.4 Motions not moved**

If a motion set out in the summons is not moved either by a councillor who gave notice thereof or by some other councillor on his/her behalf it shall be treated as withdrawn and shall not be moved without fresh notice.

### **13.5 Automatic reference to committee**

If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet or any committee or sub-committee it shall, upon being moved and seconded, stand referred without discussion to the Cabinet or such committee or sub-committees, or to such other committee or sub-committee as the Council may determine, for consideration and report: provided that the Chair may, if they consider it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

## **14.0 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Cabinet or committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to extend the time limit for a speech;

- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 3 hours in duration;
- (o) to take a named vote under Procedure Rule 16.4;
- (p) to suspend a particular Council Procedure rule;
- (q) to exclude the public and press in accordance with the Access to Information Rules;
- (r) to not hear further a councillor named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (s) to give the consent of the Council where its consent is required by this Constitution.

## **15.0 RULES OF DEBATE**

### **15.1 No speeches until motion seconded**

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

### **15.2 Right to require motion in writing**

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

### **15.3 Seconders' speech**

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

### **15.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a point of order or personal explanation. No speech may exceed 10 minutes without the consent of the Chair.

### **15.5 Only one councillor to stand at a time**

A councillor when speaking shall stand, if they are able to do so, and address the Chair. If two or more councillors rise, the Chair shall call on one to speak; the other or others shall then sit. While a councillor is speaking the other councillors shall remain seated, unless rising to a point of order or personal explanation.

### **15.6 When a councillor may speak again**

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

- (a) to speak once on an amendment moved by another councillor;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) if his/her first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order or a personal explanation;
- (f) in accordance with Council Procedure Rules 12.3 and 12.4;
- (g) where a Councillor wishes to put forward a factual correction.

A councillor may speak more than once to ask questions of a Cabinet member or officer who is attending any Overview and Scrutiny Committee, save that when the Committee formally moves to debate the matter before it, the procedure set out above shall apply.

### **15.7 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words and/or insert and/or add others;as long as the effect of (ii) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **15.8 Alteration of motion**

- (a) A councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment under Procedure Rule 15.7 may be made.

#### **15.9 Withdrawal of motion**

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

#### **15.10 Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on their amendment.
- (d) A right of reply having been exercised, the question shall immediately be put to the meeting by the Chair.

#### **15.11 Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules;
- (i) to not hear further a member named under Procedure Rule 20.3 or to exclude them from the meeting under Rule 20.4;
- (j) a requisition for a named vote under Procedure Rule 16.4.

#### **15.12 Closure motions**

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



motion to the vote without giving the mover of the original motion the right of reply and without further debate or discussion.

### **15.13 Point of Order and Personal Explanation**

A point of order is a request from a councillor to the Chair to rule on an alleged irregularity in the procedure of the meeting. A councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of the Council Rules of Procedure or the law. The councillor must indicate the rule or law and the way in which they consider it has been broken without which the alleged breach shall be disregarded. The ruling of the Chair on the matter will be final and shall not be open to debate.

A councillor may rise to give a personal explanation at any time and will be heard immediately. A personal explanation must be confined to some material part of a former speech either by or relating to the Member, at the same meeting which may have been misunderstood. The ruling of the Chair on the matter will be final and shall not be open to debate.

### **15.14 Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council (or of the Cabinet, a committee or a sub-committee) to which Section 100(A) of the Local Government Act 1972 applies as it relates to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or the conduct of any person employed by the Council, such question shall not be subject of discussion until the Council, Cabinet, or relevant committee or sub-committee as the case may be, has decided whether or not the power of exclusion of the public under Section 100(A) of the Local Government Act 1972 shall be exercised.

### **15.15 Councillor with a Disclosable Pecuniary Interest**

Where a Councillor has a Disclosable Pecuniary Interest in a matter to be considered at a meeting, the Councillor may attend the meeting when it considers the item only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise. Once the Councillor has made these representations or the meeting considers that the Councillor has concluded making representations, the Councillor must leave the room during the discussion or vote on the matter.

## **16.0 VOTING**

### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put. Only those councillors who have been present for the entirety of the debate on the item in question are entitled to vote.

## **16.2 Chair's casting vote**

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

## **16.3 Method of Voting**

Unless this Constitution provides otherwise, or a named vote is demanded under Rule 16.4, the Chair will take the vote by show of hands or, if there is no dissent, by the affirmation of the meeting.

## **16.4 Named vote**

There shall be a named (or roll-call) vote if:

- (a) the majority of Councillors present at the meeting demand it or the Leader of the Principal Opposition Party demands it,
- (b) The law so requires it, including in relation to the adoption of the annual budget for the Council and the setting of the Council Tax

Where there is a named vote the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## **16.5 Right to require individual vote to be recorded**

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

## **16.6 Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, 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.

## **17.0 MINUTES**

### **17.1 Signing the minutes**

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

## **17.2 Contents of Minutes**

Minutes of meetings of the Council shall record the proposal (including any amendment) moved, duly seconded and adopted by the Council.

## **17.3 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

## **17.4 Form of minutes**

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

## **18.0 RECORD OF ATTENDANCE**

All councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting as a record of their attendance.

## **19.0 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Procedure Rule 20 (Disturbance by Public).

## **20.0 COUNCILLORS' CONDUCT**

### **20.1 Standing to speak**

When a councillor speaks at a Council meeting they must stand, if they are able to do so, and address the meeting through the Chair. If more than one councillor stands, the Chair will ask one to speak and the others must sit. Other councillors must remain seated whilst a councillor is speaking unless they wish to make a point of order or give a personal explanation.

### **20.2 Chair standing**

When the Chair stands during a debate, any councillor speaking at the time must stand and sit down. The meeting must be silent.

### **20.3 Councillor not to be heard further**

If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, either during their speech or at any point during the meeting, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion. If the motion is carried the Councillor concerned may still vote on the matter under debate.

### **20.4 Councillor to leave the meeting**

If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### **20.5 General disturbance**

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

## **21.0 DISTURBANCE BY PUBLIC**

### **21.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

### **21.2 Clearance of part of meeting room**

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

## **22.0 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Rules of Procedure except Rule 13.5 and 15.3 may be suspended by motion on notice or without notice if at least one half of the whole number of councillors are present. Suspension can only be for the duration of the meeting.

### **22.2 Amendment**

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

## **23.0 DELEGATION**

Where there has been any delegation of a power duty or function to a committee, the committee, shall in turn be duly authorised to further delegate the same provided that such delegation does not contravene any other decision of the Council.

## **24.0 SUBSTITUTE MEMBERS**

- 24.1** The substitution rules will not apply to meetings of the Cabinet or the Audit and Member Standards Committee.
- 24.2** Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.
- 24.3** The Monitoring Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 24.4** In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received the required training in relevant procedures and the law.
- 24.5** Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 24.6** Substitute Members may attend meetings in that capacity only:
- (i) to take the place of the ordinary Member for whom they are designated substitute;
  - (ii) where the ordinary Member will be absent for the whole of the meeting;
  - (iii) where the ordinary Member has notified the Monitoring Officer of the intended substitution by 10 am on the day of the relevant meeting.

## **25.0 REPORTS OF OFFICERS**

- (a) Every such report to the Cabinet or any committee or sub-committee shall be issued by the Head of Governance and Performance to all councillors via the committee meeting system, or to all members of the Cabinet, committee, or sub-committee, as the case may be, with the summons or agenda which provides for the consideration thereof, at least 5 working days before the date on which the meeting is to be held, or, exceptionally, as soon as practicable before the meeting.

- (b) All business to be discussed at meetings of the Cabinet or any committee or sub-committee shall be set out in the agenda or in a report thereto.
- (c) The Leader of the Council (or other Councillor presiding at a meeting of the Cabinet) and the Chair of the appropriate committee shall be authorised to allow urgent business to be brought forward at the conclusion of the business set out on the agenda, provided a written report detailing the subject matter has been circulated to the councillors present at the commencement of the meeting and the reasons for the urgency given.

## **26.0 URGENT ACTION**

The Chief Executive, in consultation with the Leader of the Council, relevant Cabinet Member, or the Chair of the relevant committee, as appropriate, shall authorise any urgent action when it would be in the best interests of the Council to act prior to the appropriate Council or Committee meeting or prior to an executive decision being made; subject to such action being reported to the next meeting of the Council, the Cabinet or the committee.

## **27.0 INTERESTS OF COUNCILLORS IN CONTRACTS AND OTHER MATTERS**

- (a) If any councillor has a Disclosable Pecuniary Interest in a matter as defined in the Code of Conduct (see Part 5 hereof) and attends a meeting at which the matter is considered the councillor shall disclose to the meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.
- (b) If any councillor has a Disclosable Pecuniary Interest in a matter as defined in the Code of Conduct (see Part 5 hereof) then that member shall:
  - (i) withdraw from the room where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting unless a dispensation has been obtained from the Audit and Member Standards Committee or has been granted by the Monitoring Officer in accordance with any delegated authority therefrom:
  - (ii) not exercise executive functions in relation to that matter; and
  - (iii) not seek improperly to influence a decision about that matter.

## **28.0 INTEREST OF EMPLOYEES AND COUNCILLORS IN CONTRACTS ETC**

The Monitoring Officer shall record particulars of any notice given by an employee of the Council under section 117 of the Local Government Act 1972 of a pecuniary interest in a contract, and the record shall be available during office hours to the inspection of any councillor and a similar record shall be kept of such interests declared by councillors and published on the website.

## **29.0 PROCEDURE RULES TO BE GIVEN TO COUNCILLORS**

A copy of these Procedure Rules, and of such statutory provisions as regulate the proceedings and business of the Council shall be provided electronically to each councillor by the Monitoring Officer on or before the councillor signs a Declaration of Acceptance of Office on being first elected to the Council.

## **30.0 INSPECTION OF DOCUMENTS**

- (a) A councillor may, for purposes of his/her duty as such councillor but not otherwise, on application in writing to the Chief Executive, inspect any document which has been considered by a committee or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such a document.
- (b) The written application shall set out the duty which the councillor is seeking to discharge in inspecting the document and the reasoning underlying the same.
- (c) A councillor shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which they are professionally interested or in which they have a Disclosable Pecuniary Interest as defined in the Code of Conduct (see Part 5 hereof) or, directly or indirectly, any pecuniary interest within the meaning of section 94 of the Local Government Act, 1972. This Procedure Rule shall not preclude the Chief Executive from declining to allow inspection of any document which, in the event of legal proceedings, would be protected by privilege arising from the relationship of solicitor and client.

## **31.0 INSPECTION OF LAND, PREMISES, ETC. BY COUNCILLORS**

A councillor shall not issue any order for goods, works or services on behalf of the Council or claim by virtue of his/her membership of the Council any right to inspect, or to enter upon any lands, offices, or premises which the Council has the power or duty to inspect or enter,

## **32.0 APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of the Council. None of the rules apply to meetings of the Cabinet. Only Rules 6-27 (but not Rules 12, 13) and 26), apply to meetings of committees and sub-committees save that:

- (a) the Chair of the meeting may at his discretion waive the prohibition on members speaking more than once as contained in Rule 15.6;
- (b) Rule 17.2 shall apply to meetings of the Planning Committee or the Licensing and Regulatory Committee only when those committees are not considering individual applications.

- (c) Rule 9 shall apply to committees and sub-committees subject to a quorum being no fewer than 3 members of the committee/sub-committee.

**33.0 DETERMINATION OF PLANNING APPLICATIONS BY THE PLANNING COMMITTEE CONTRARY TO OFFICER RECOMMENDATIONS**

The Chair of the Planning Committee shall not accept a proposal to determine a planning application contrary to officers' recommendations unless:

- (a) a motion to approve a planning application incorporates any conditions to be attached to such approval and also includes reasons for planning permission being granted and reasons for such conditions as may be imposed.
- (b) a motion to refuse a planning application incorporates the grounds for planning permission being refused.



## **PART 4 - SECTION 2 – ACCESS TO INFORMATION PROCEDURE RULES**

### **1.0 Introduction**

These rules apply to all meetings of the Council, the Cabinet and any committees or sub-committees (together referred to in this Section as meetings).

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. In addition to the specific measures set out below the Council will ensure that it complies with the Openness of Local Government Bodies Regulations 2014 in making all relevant papers and documents available to members of the public.

### **2.0 Additional rights to information**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018).

### **3.0 Rights to Attend Meetings, Record Meetings and Public Speaking**

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

Members of the public have a right to speak at Planning Committee in accordance with the Public Speaking at Planning Committee guidance.

Applicants or Licence Holders have a right to speak at Licensing and Regulatory Committee or Licensing Sub-Committee at a hearing relating to their application/licence.

All public meetings of the Council may be recorded; a protocol in respect of the recording of meetings is in place (Appendix B to this Section).

The Council Procedure Rules of this Constitution allow that, if a member of the public or press interrupts the proceedings at any meeting, the Chair may warn them. If they continue the interruption and a warning has been given, the Chair may order their removal from the meeting place. In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared. If the Chair considers the orderly dispatch of business impossible, the Chair may without question adjourn the meeting.

#### **4.0 Notices of Meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website at [Council Meetings](#) or via subscription to the committee management system app.

#### **5.0 Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection (by appointment at the Council Offices, Lichfield) on the website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the agenda has been sent out, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

#### **6.0 Supply of Copies**

Copies of :

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda

will be available to members of the public attending a meeting on the Council's website [Council Meetings](#) 5 working days prior to the meeting. .

#### **7.0 Access to Minutes etc, after the Meeting**

The Council will continue to publish on its website the following for six years after a meeting:

- (a) the minutes of the meeting or the record of decisions taken together with the reasons for those decisions, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (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 considered when the meeting was open to the public.

## **8.0 Background Papers**

- (a) Every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in the Monitoring Officer's opinion:
  - (i) disclose any facts or matters on which the report or an important part of the report is based; and
  - (ii) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.
- (b) The Council will retain for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9.0 Exclusion of Access by the Public to Meetings**

**9.1** The public may only be excluded under rule 9.2 or 9.4 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

### **9.2 Confidential Information – Requirement to exclude public**

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

### **9.3 Meaning of Confidential Information**

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

### **9.4 Exempt Information – Discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or due to the nature of the proceedings, that exempt information would be disclosed. A decision to exclude the public is to be made by a formal resolution of Council, committee or sub-Committee.

When 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.

## 9.5 Meaning of Exempt Information

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

<u>Category</u>
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes— (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
Conditions
A. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under— (a) the Companies Acts (as defined in Section 2 of the Companies Act 2006) (b) the Friendly Societies Act, 1974; (c) the Friendly Societies Act, 1992; (d) the Industrial and Provident Societies Acts, 1965 to 1978; (e) the Building Societies Act, 1986; or (f) the Charities Act, 1993.
B. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations, 1992.

- C. Information which—
- (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- D. (1) In parts 1 and 2 of this Part of this Schedule—
- "employee" means a person employed under a contract of service;
- "financial or business affairs" includes contemplated, as well as past or current, activities;
- "labour relations matters" means—
- (a) any of the matters specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act, 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
  - (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;
- "office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;
- "registered" in relation to information required to be registered under the Building Societies Act, 1986, means recorded in the public file of any building society (within the meaning of that Act).
- (2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—
- (a) in the case of a principal council, to any committee or sub-committee of the council; and
  - (b) in the case of a committee, to
    - (i) any constituent principal council;
    - (ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
    - (iii) any other committee or sub-committee of a principal council falling within sub paragraph (i) or (ii) above; and
  - (c) in the case of a sub-committee, to—
    - (i) the committee, or any of the committees, of which it is a sub-committee; and
    - (ii) any principal council which falls within paragraph (b) above in relation to that committee.

## **10.0 Exclusion of Access by the Public to Reports**

With the approval of the Chief Executive, the Council may withhold public access to reports which, in the opinion of the Monitoring Officer, relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed. If the information is exempt information the category of exemption must also be marked in the report.

## **11.0 Cabinet and Officer Decisions**

### **(a) Advance notice of key decisions**

- (i) The Cabinet is required to give advance notice of forthcoming "Key Decisions", which are defined as any Cabinet, Committee of Cabinet, individual member or officer decision in the course of exercise of an executive function decision likely to:
- result in the Council incurring additional expenditure or the making of savings or additional income which are significant having regard to the Council's approved budget for the service or function to which the decision relates or
  - be significant in terms of its effects on communities living or working in an area comprising two or more wards within the area of the Council

In addition, any decision involving additional expenditure, savings or additional income of over £75,000 (but excluding any decision relating to investment/withdrawal of Council monies as part of Treasury Management Procedures and the approved budget) will be considered to be a key decision.

Subject to Rule 11(d) (general exception) and Rule 11(e) (special urgency), a key decision may not be taken unless:

- A Notice of Key Decision has been published in connection with the matter in question;
- at least 28 clear days has elapsed since the publication of the Notice of Key Decision; and
- where the decision is to be taken at a meeting of the Cabinet notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

**(b) Contents of Notice of Key Decision**

The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, an individual Cabinet Member or an officer in the course of the discharge of an executive function. It will describe the following particulars:

- (i) the matter in respect of which the decision is to be made;
- (ii) where the decision maker is an individual, the name and title of the decision maker, and where the decision maker is a body, its name and a list of its membership;
- (iii) the date on which, or the period within which, the decision is to be made;
- (iv) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- (v) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (vi) that other documents relevant to the matter may be submitted to the decision maker; and
- (vii) the procedure for requesting details of those documents (if any) as they become available.

**(c) Publication of the Notice of Key Decision**

The Notice of Key Decision must be made available for inspection by the public at the Council Offices, Lichfield and on the Council's website [Forward Plan](#) and a link to the Forward Plan will be sent to all Members of the Council digitally.

**(d) General Exception**

If a Notice of Key Decision has not been published, then subject to Rule 11(e) (special urgency), the decision may still be taken if:

- (i) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;
- (ii) the Monitoring Officer has informed the Chair of the Overview and Scrutiny Committee, or in their absence the Vice-Chair, in writing, or if there is no such person, each member of that committee in writing, by notice, of the matter about which the decision is to be made;

- (iii) the Monitoring Officer has made copies of that notice available to the public at the Council Offices, Lichfield, and publish the notice on the [Forward Plan](#) and
- (iv) at least 5 clear days have elapsed since the Monitoring Officer complied with 11 (d) (ii) and (iii).

As soon as reasonably practicable after the Monitoring Officer has complied with Rule 11(e), they must make available at Council Offices Lichfield and publish on the [Forward Plan](#) the reasons why compliance with Rule 11(a) is impractical.

At least once a year a report must be taken to full Council setting out all executive decisions taken under urgency provisions.

**(e) Special Urgency**

If by virtue of the date by which a key decision must be taken Rule 11(d) (general exception) cannot be followed, then the key decision can only be taken with the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

As soon as reasonably practicable after agreement has been obtained under Rule 11(e), the decision maker must make available at Council Offices Lichfield and publish on [Forward Plan](#) a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

**(f) Notice of Private Meetings of the Cabinet**

At least 28 clear days before a private meeting the Cabinet must:-

- (i) make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting") including reasons for doing so; and
- (ii) publish that notice on the Council's website.

At least five clear days before a private meeting, the Cabinet must:-

- (i) make available at the Council Offices, Lichfield, a further notice of its intention to hold the meeting in private; and
- (ii) publish that notice on the Council's website.

This further notice must include:-

- (i) a statement of the reasons for the meeting to be held in private



- (ii) details of any representations received by the Cabinet about why the meeting should be open to the public; and
- (iii) a statement of the response of the Cabinet to any such representations.

Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the Cabinet has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the Chair of the Overview and Scrutiny Committee

As soon as reasonably practicable after the Cabinet has obtained agreement to hold a private meeting, it must

- (i) make available at the Council Offices, Lichfield, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (ii) publish that notice on the Council's website.

**(g) Where the Chair of the Overview and Scrutiny Committee is Unable to Act**

Where the agreement of the Chair of the Overview and Scrutiny is required by 11(d) or 11(e) and where there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then agreement shall be sought from the Vice-Chair of the Overview and Scrutiny Committee.

If there is no Vice-Chair of the Overview and Scrutiny Committee or the Vice-Chair of the Overview and Scrutiny Committee are unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair of the Council will suffice.

**(h) Attendance at Private Meetings of the Cabinet**

All members of the Cabinet will be served notice of all private meetings of the Cabinet and shall be entitled to attend private meetings of the Cabinet unless precluded from doing so by law or by the Code of Conduct for Members. Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet.

**(i) Recording a Decision by the Cabinet or other Individual Cabinet Member or a Key Decision by an officer**

As soon as reasonably practicable after a Cabinet decision has been made by the Cabinet collectively or by an individual Cabinet Member, the Cabinet or Cabinet

Member, or in the case of a key decision made by an officer, the officer shall make a written record of that decision which shall include:

- (a) record of the decision including the date;
- (b) record of reasons for the decision;
- (c) details of alternative options considered;
- (d) record of any conflict of interest declared; and
- (e) any dispensation granted by Audit and Member Standards Committee or Monitoring Officer, where appropriate.

Records of Cabinet and Key officer decisions shall be sent to the Monitoring Officer who shall maintain such records and shall publish them on the Council's website, together with a copy of any report considered and any background papers.

Rules 11(i)(b) and 11(i)(c) do not apply where the publication of a report or background paper would be likely to disclose exempt or confidential information

## **Filming, Videoing, Photography and**

### **Audio Recording at council meetings**

Lichfield District Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record decision making in action at any meeting that is open to the public.

The Council also welcomes the use of social media.

This Protocol provides practical information to assist anyone considering filming, videoing, photographing or making audio recordings of meetings.

#### **Before the meeting**

Anyone intending to film or record a meeting is encouraged to contact the Monitoring Officer for advice and guidance. Reasonable advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will not be permitted, unless agreed in advance and it can be accommodated without causing disruption to the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting rooms.

#### **General**

The Chair of the meeting or the relevant Cabinet Member will be informed of any intention to film and they will make an announcement to attendees before the start of the meeting informing attendees that the meeting may be filmed.

Notice of the filming/recording/broadcasting of meetings will be displayed in and outside the place of meeting and meeting agendas will include the following:

“The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Monitoring Officer (in advance) who will instruct that they are not included in the filming.”

Members of the public speaking at, or attending, the meeting (including asking questions or presenting petitions) must not be filmed if they have indicated that they do not wish to be

included.

Recording and reporting the council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act, GDPR and the laws of libel and defamation.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

The Council will display the requirements as to filming, recording and broadcasting at its meeting venues and those undertaking these activities will be deemed to have accepted them whether they have read them or not.

The Council will publish the guidance on the filming, recording and broadcasting of meetings on its website.

Filming or recording must be non-intrusive and the Council's Rules of Procedure Rule 22 provides for the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings. The Chair of a meeting or an individual Cabinet Member may also call any part of the meeting room to be cleared in the event of a general disturbance.

It should be noted that the Chair of a meeting will have absolute discretion to terminate or suspend any of the above activities if, in their opinion, continuing to do so would prejudice the running of the meeting. The circumstances in which termination or suspension might occur could include:

- public disturbance, disruption or suspension of the meeting.
- the meeting agreeing to formally exclude the press and public from the meeting due to the exempt/confidential nature of the business being discussed, in accordance with statutory procedures.
- where it is considered that continued recording/ photography/ filming/ webcasting might infringe the rights or privacy of any individual (including staff members), or intimidate them.
- for any other reason which the Chair considers reasonable in the circumstances.

### **During the meeting**

Filming or recording of Meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chair or the Cabinet Member has discretion to suspend or stop

filming or recording at any time and to take appropriate action if anyone is, in their opinion, doing so in a disruptive manner.

- Not seek to 'overview' sensitive information such as close ups of confidential papers or private notes
- Usually take place from a specified location(s) within the room.
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting agrees to formally exclude the Press and public due to business of an exempt or confidential nature (see 'Exempt or confidential business' below).
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that ridicules those being filmed.
- When published or broadcast, recordings should be accompanied by information including when and where the recording was made and the context in which the discussion took place.
- Be overt (i.e. clearly visible to anyone at the meeting).
- Cease, unless continued filming has been explicitly agreed in advance with the Monitoring Officer, when the meeting is formally concluded.

#### **Exempt or confidential business**

All meetings of the Cabinet, Committee, Sub Committee and Panel meetings are open to the public except in limited circumstances where the Council is legally required, or allowed, to close the meeting to the public. The circumstances where business is 'exempt' or 'confidential' are set out in Section 2 Part 4 of the Council's Constitution.

## **PART 4 - SECTION 3 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1.0 The Framework for Cabinet Decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it. References in these rules to the Policy Framework are to the plans and strategies required by law to be adopted by the Council as set out in Article 4.

#### **Process for developing Policy Framework**

- 1.1 The Leader of the Council will publicise at the Council's offices and on its website, a timetable for making proposals to the Council for the adoption of any plan, strategy, or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chair of the Overview and Scrutiny Committee and the Chair of the Audit and Member Standards Committee will also be notified. The consultation period shall, in each instance, be dependent on the nature or complexity of the plan strategy or budget in question."
- 1.2 At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. The Cabinet will then consult the relevant Overview and Scrutiny Committee on the proposals. It will be open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response submitted from the Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees, and the Cabinet's further response.
- 1.3 Once the Cabinet has approved the firm proposals, they will be referred at the earliest opportunity to the Council for decision.
- 1.4 In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- 1.5 If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- 1.6 The decision will be publicised.
- 1.7 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Rule 1.8 below.

1.8. Before the Council:

1.8.1 amends the draft plan or strategy;

1.8.2 approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

1.8.3 adopts (with or without modification) the plan or strategy,

it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

1.9 Where the Council gives instructions in accordance with Rule.1.8, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions within which the Leader of the Council may:-

1.9.1 submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

1.9.2 inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.

1.10 When the period specified by the authority, referred to in paragraph 1.9, has expired, the Council must, when:-

1.10.1 amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

1.10.2 approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

1.10.3 adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

## Process for developing the Budget/MTFS

- 1.11 Subject to Rule 1.15, where the Cabinet submits to the Council for its consideration in relation to the following financial year:-
- 1.11.1 estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - 1.11.2 estimates of other amounts to be used for the purposes of such a calculation;
  - 1.11.3 estimates of such a calculation; or
  - 1.11.4 amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- and following consideration of these estimates or amounts the Council has any objections to them, it must take the action set out in Rule 1.12.
- 1.12 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 1.11.1, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of the Council of any objections which it has to the Cabinet's estimates or amounts and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- 1.13 Where the Council gives instructions in accordance with Rule 1.12, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader of the Council may:-
- 1.13.1 submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - 1.13.2 inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- 1.14 When the period specified by the Council, referred to in Rule 1.13, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 1.13, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:-
- 1.14.1 any amendments to the estimates or amounts that are included in any revised estimates or amounts;



1.14.2 the Cabinet's reasons for those amendments;

1.14.3 any disagreement that the Cabinet has with any of the Council's objections;  
and

1.14.4 the Cabinet's reasons for that disagreement,

which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

1.15 The above Rules shall not apply in relation to -

1.15.1 calculations or substitute calculations which the Council is required to make in accordance with relevant legislation; and

1.15.2 amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with relevant legislation.

1.16 In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year adjustments to the Policy Framework which may be undertaken by the Cabinet, in accordance with these Rules and the Financial Procedure Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

1.17 The Cabinet will in addition to the above provisions consult the Scrutiny Committee regularly in the process of preparing the draft budget and draft plans and strategies and, where appropriate, stakeholders.

## **2.0 Decisions outside the Budget and Policy Framework**

2.1 Subject to the provisions of Rule 1.16 and Rule 3.3 below the Cabinet members of the Cabinet, and any officers discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons considers it desirable for a decision to be made which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, that decision may only be taken by the Council, subject to Rule 3.3 below.

## **3.0 Urgent decisions outside the Budget or Policy Framework**

3.1 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 if the decision is a matter of urgency. However, the decision may only be taken if it is not practical to convene a meeting of the full Council and the Chair of the Overview and Scrutiny Committee or in their absence the Vice-Chair of the Overview and Scrutiny Committee agrees that the decision needs to be taken as a matter of urgency.

- 3.2 The reasons why it is not practical to convene a meeting of the Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 3.3 Following the decision, the Cabinet 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.

#### **4.0 Virement**

- 4.1 The Financial Procedure Rules set out the arrangements for authorising virement between budget heads. Virement of expenditure permitted under the Financial Procedure Rules shall be deemed to be expenditure within the Council's Budget. Virement between budget heads is an integral and important feature of budgetary control. It allows service providers to adapt to service changes within the Council Policy Framework. The details of virement can be found in Financial Procedures Rules in Part 4 of the Constitution.

#### **5.0 In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, members of the Cabinet, or officers discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except as set out in Rules 2.0, 3.0 and 4.0 above.

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

Save in the circumstances referred to in Rule 3.0 above, if the Monitoring Officer and/or Chief Finance Officer consider that a proposed decision would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, no action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council may:

- (a) determine that the proposed decision falls within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all councillors in the normal way; or
- (b) amend the Council's policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that decision of the Council shall be minuted and circulated to all councillors in the normal way; or
- (c) where the Council accepts that 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 policy or budget to accommodate it, require the Cabinet to reconsider the matter; or

- (d) approve the decision or proposal as an exception to the policy; or
- (e) provide the relevant budgetary provision for the decision or proposal.

## **PART 4 - SECTION 4 - CABINET PROCEDURE RULES**

### **1.0 How Does the Cabinet Operate**

#### **1.1 Who may make Cabinet decisions?**

Cabinet functions may be discharged by:

- (i) the Cabinet as a whole;
- (ii) an individual member of the Cabinet;
- (iii) an officer;

#### **1.2 Delegation by the Leader**

Following the annual meeting of the Council, the Monitoring Officer will, at the direction of the Leader, draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

- 1.2.1 the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- 1.2.2 the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### **1.3 Sub-delegation of executive functions**

- 1.3.1 Where the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an officer.
- 1.3.2 Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and executive functions**

- 1.4.1 The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

## **1.5 Cabinet meetings – when and where?**

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's Main Offices, Lichfield or another location to be agreed by the Leader of the Council.

## **1.6 Public or private meetings of the Cabinet?**

The Cabinet will meet in public subject to the right to meet in private under the Local Government Act 1972 (as reflected in the Access to Information Rules in Part 4 of this constitution).

## **1.7 Quorum**

The quorum for a meeting of the Cabinet shall be 3 including either the Leader or the Deputy Leader.

## **1.8 How are decisions to be taken by the Cabinet?**

Cabinet decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.

## **2.0 How Are Cabinet Meetings Conducted?**

### **2.1 Who presides?**

If the Leader of the Council is present, they will preside. In their absence, the Deputy Leader of the Council will preside.

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

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

### **2.3 What business?**

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

- (i) apologies for absence;
- (ii) declarations of interest, if any;
- (iii) matters set out in the agenda for the meeting, including matters referred to the Cabinet (whether by a scrutiny committee, or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution; and consideration of reports from the Overview and Scrutiny Committees. The agenda shall indicate which are key decisions and which are not to be

considered in public in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet from any member of the Cabinet on proposals relating to the budget and policy framework must contain in a standard paragraph of the report details of the nature and extent of consultation with stakeholders and the relevant scrutiny committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

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

- (i) The Leader of the Council will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wish and which is a matter which may be the responsibility of the Cabinet or a Cabinet Member. The Chief Executive shall comply with the Leader of the Council's requests in this respect.
- (ii) Any member of the Cabinet may require the Chief Executive to place an item on the agenda of the next available meeting of the Cabinet for consideration. If they receive such a requirement in writing the Leader of the Council will comply with it;
- (iii) The Chief Executive will place on the agenda of the next or next but one meeting of the Cabinet any item which the Council or a scrutiny committee have resolved that be considered by the Cabinet;
- (iv) Any councillor may ask the Leader of the Council to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader of the Council agrees the item will be considered at the next or next but one meeting of the Cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered. The councillor will be invited to attend the meeting, whether or not it is a public meeting.
- (v) The Monitoring Officer and/or the Section 151 Officer and/or the Chief Executive may place an item for consideration on the agenda of a Cabinet meeting and may request the Chief Executive to call such a meeting in pursuance of their statutory duties. The Chief Executive will comply with that request. If there is no meeting of the Cabinet timely enough to deal with the issue in question, the Chief Executive shall convene an earlier meeting of it at which the matter will be considered.

## **PART 4 - SECTION 5 – OVERVIEW AND SCRUTINY PROCEDURE RULES**

**1.0** The Council at its annual meeting will appoint an Overview and Scrutiny Committee  
The committee may appoint sub-committees, panels or task groups.

1.1 The Overview & Scrutiny Committee will perform all overview and scrutiny functions on behalf of the Council, in accordance with this Constitution.

1.2 The terms of reference of the Overview & Scrutiny Committee is set out in Part 3 of this Constitution.

### **2.0 WHO MAY SIT ON THE SCRUTINY COMMITTEES**

2.1 All Councillors except members of the Cabinet shall be eligible to serve on the Scrutiny Committee. However, no councillor may be involved in scrutinising a decision in which they have been directly involved.

### **3.0 CO-OPTees**

3.1 The Scrutiny Committee shall be entitled to appoint persons as non-voting co-optees.

### **4.0 MEETINGS OF THE OVERVIEW & SCRUTINY COMMITTEE**

4.1 Meetings will be held in accordance with the schedule of meetings approved by the Council and additional meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the Chair of Overview & Scrutiny Committee, by any member of the committee, or by the Chief Executive if they consider it necessary or appropriate.

### **5.0 QUORUM**

5.1 The quorum for the Overview & Scrutiny Committee shall be one quarter of the voting members of the committee or three voting members whichever is the greater number.

### **6.0 WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE**

6.1 The Chair of the committee will be drawn from among the members sitting on the committee, save that the Chair or Vice-Chair of the Council shall not be the Chair or vice-Chair of Overview & Scrutiny Committee.

### **7.0 SCRUTINY WORK PROGRAMME**

Overview and Scrutiny Committee will prepare their work plan each year and update it regularly and convene such meetings as necessary and instigate task groups as required to undertake the work programme.

A Task Group shall be led by a Chair appointed by the Chair of Overview & Scrutiny Committee (having undertaken the relevant training or holding the necessary experience).

### **Member Task Groups**

The Committee will report annually to Council on the working of the overview and scrutiny arrangements and may make recommendations for improvement.

## **8.0 AGENDA ITEMS**

8.1 Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Chair that they wish an item relevant to the functions of the scrutiny committee to be included on the agenda for the next available meeting of the committee provided that seven working days has been given to the Monitoring Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

## **9.0 REVIEW OF COUNCIL ACTIVITIES**

9.1 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at its next or next but one meeting.

## **10.0 COUNCILLOR CALL FOR ACTION**

10.1 Any member of the Council may refer a matter which affects their ward to the Overview and Scrutiny Committee (except that a member may not exercise this right relevant to a matter upon which they may exercise Cabinet powers).

10.2 Any member referring a Councillor Call for Action shall have the right to:-

- make representations to the relevant Overview and Scrutiny Committee as to why the committee should scrutinise the matter
- if the Overview and Scrutiny Committee decides not to scrutinise the matter, receive reasons from the committee for not doing so.
- if the Overview and Scrutiny Committee decides to scrutinise the matter, receive the committee report and/or recommendation(s)



## **11.0 POLICY REVIEW AND DEVELOPMENTS**

- 11.1 The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 11.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the scrutiny committee may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference;
- 11.3 The Overview & Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process within the budgetary provision assigned to it. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations within such budgetary provision. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors, and witnesses a reasonable fee and expenses for doing so within the budgetary provision assigned to it.

## **12.0 REPORTS FROM THE OVERVIEW & SCRUTINY COMMITTEE**

- 12.1 Once it has formed recommendations on proposals, the Chair of the scrutiny committee will prepare a formal report and submit it to the Chief Executive for consideration by Council or by the Cabinet which shall consider and respond to the recommendations.
- 12.2 The Council or the Cabinet shall consider the report of the Overview & Scrutiny Committee at its next or next but one meeting.

## **13.0 MAKING SURE THAT SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- 13.1 The reports of the Overview & Scrutiny Committee referred to the Cabinet shall be included in the agenda by the Chief Executive at the next or next but one meeting.
- 13.2 Where the Overview & Scrutiny Committee prepares a report for consideration in relation to a matter where the Council has delegated decision making power to an individual member of the Cabinet, the scrutiny committee, will submit a copy of its report to them for consideration and, at the same time send a copy of the report to the Chief Executive . The member with delegated decision making power must consider the report and respond in writing to the Overview & Scrutiny Committee, within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Chief Executive and the Leader of the Council. The member will also, at the request of the Overview & Scrutiny Committee, attend a future meeting of the scrutiny committee, to present the response.

## **14.0 SCRUTINY OF CABINET DECISIONS**

- 14.1 Once any proposed decision (whether or not the proposal constitutes a key decision) has been considered by the Overview and Scrutiny Committee, and subject to that committee having no adverse comments to make thereon, any decision of the Cabinet or a Cabinet Member in accordance with that proposal will not be subject to further call in and, unless prescribed by law or the Council's Constitution, not subject to any requirement for approval by Council.
- 14.3 Where a Cabinet decision has been made (either by the Cabinet, a Cabinet Member or an officer) and that decision was not treated as a key decision and the Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet or officer to submit a report to full Council within a reasonable period. The report must include details of the decision and reasons for it, by whom the decision was taken and the reasons for not classing the decision as key.

## **15.0 COUNCILLORS AND CHIEF OFFICERS GIVING ACCOUNT**

15.1 Within its terms of reference the Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require, in accordance with any protocol the Council may adopt, any member of the Cabinet, the Chief Executive, or any Chief Officer to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy;and/or
- their performance,

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

15.2 Where any member of the Cabinet or employee is required to attend Overview & Scrutiny Committee, under this provision, the Chair of that committee or panel will inform the Chief Executive . The Chief Executive shall inform the councillor or Chief Officer in writing giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, the councillor or Chief Officer concerned will be given sufficient notice to allow for preparation of that documentation.

15.3 Where, in exceptional circumstances, the member of the Cabinet or Chief Officer is unable to attend on the required date, the Chair of the scrutiny committee, shall, in consultation with the councillor or Chief Officer, arrange an alternative date for attendance to take place within a maximum of 21 days from the date of the original request, unless an extended period is agreed by the relevant Chair.

## **16.0 ATTENDANCE BY OTHERS**

- 16.1 The Overview & Scrutiny Committee or any member task group may invite people other than those people referred to in paragraph 16 above to address it, discuss issues of local concern, and/or answer questions. It may for example wish to hear from residents, stakeholders (including partner organisations), and councillors and employees in other local authorities and shall invite such people to attend.
- 16.2 With the agreement of the relevant Chair, all non-Cabinet members may make representations to the Overview & Scrutiny Committee, of which they are not a member, although they may not take part in the debate or formally put forward proposals.
- 16.3 With the agreement of the Chair, a Cabinet member may make representations to the Overview & Scrutiny Committee acting in his/her capacity as a Ward Councillor, subject to the matter under consideration not falling within that Member's responsibilities, but may not take part in the debate or formally put forward proposals.
- 16.4 With the agreement of the Chair, a non-Cabinet member excluded under Paragraph 2.1 may make representations to the Overview & Scrutiny committee acting in their capacity as Ward Councillor, but may not take part in the debate formally put forward proposals or vote on relating to a decision in which they have been directly involved and even if they are a member of the Committee
- 16.5 Nothing in the Overview and Scrutiny Procedure Rules 18.2 and 18.3 inhibits a member's ability to submit a Councillor Call for Action pursuant to Overview and Scrutiny Procedure Rule 10.

## **17.0 CALL-IN**

- 17.1 When a decision is proposed by the Cabinet or an individual Cabinet Member, notice of it shall be published, by electronic means . All non-Cabinet members, together with the Monitoring Officer and Section 151 Officer will be sent copies within the same timescale by the person responsible for proposing the decision.
- 17.2 The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the proposed decision, unless the Chair or Vice-Chair of Overview and Scrutiny Committee or 5 members of Overview and Scrutiny Committee or the Leader of the Principal Opposition or 10 non-cabinet members object and call it in. Where a member calls in a decision for scrutiny that member shall specify the reason or reasons for requesting consideration by the Overview and Scrutiny Committee. The Monitoring Officer or the Section 151 Officer may also call-in a matter for scrutiny on the same terms as non-Cabinet members.
- 17.3 During the call-in period, the Chief Executive shall call in a decision for scrutiny by the Overview and Scrutiny Committee if so requested in accordance with 17.2

above, and shall then notify the decision-maker of the call-in. The Chief Executive shall call a meeting of the Overview and Scrutiny Committee, on such date as they may determine, where possible after consultation with the Chair of the committee.

- 17.4 If, having considered the proposed decision, the Overview and Scrutiny Committee is still concerned about it, it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred back, the decision maker shall then reconsider the decision, amending it, abandoning it, or pursuing it. If having taken account of the Overview and Scrutiny Committee recommendations the decision maker decides to amend, abandon or pursue the decision it shall be notified to members in accordance with the procedures set out at paragraph 17.1 and 17.2 but the decision shall not be further subject to the call-in procedure.
- 17.5 If having been taken back for reconsideration by the decision making person or body, proposes a decision in accordance with the recommendation(s) of the Overview and Scrutiny Committee then this decision shall be notified to members in accordance with the procedures set out at paragraph 17.1 and 17.2 but the decision shall not be further subject to the call-in procedure.
- 17.6 If having considered the proposed decision, the scrutiny committee does not refer the matter back to the decision making person or body for reconsideration, the decision shall take effect on the date of the Overview and Scrutiny Committee.
- 17.7 The call-in procedure shall not apply:
- where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. Decisions taken as a matter of urgency must be reported to the Leader of the Principal Opposition Party and to the next available meeting of the Overview and Scrutiny Committee, together with the reasons for urgency.

## **18.0 CABINET DECISIONS SUBMITTED FOR SCRUTINY**

- 18.1 The procedures at paragraphs 17.5 to 17.8 will be applied to all proposed decisions by the Cabinet or a member of the Cabinet considered by the Overview and Scrutiny Committee.

## **19.0 PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

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

- (i) apologies
- (ii) declarations of interest;
- (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- (iv) responses of the Cabinet to report of the Overview and Scrutiny Committee
- (v) a Councillor Call for Action
- (vi) the business otherwise set out on the agenda for the meeting.

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

- (i) the investigation will be conducted fairly and all members of the committee given the opportunity to ask questions of attendees and to contribute and speak;
  - (ii) those assisting the committee by giving evidence be treated with respect and courtesy; and
- that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

19.3 Following any investigation or review, the Overview and Scrutiny Committee shall prepare a report for submission to the Cabinet and/or Council as appropriate.

19.4 Subject to Access to Information and Confidentiality rules, all reports and findings arising from investigations by the Overview and Scrutiny Committee shall be made public.

## **20.0 SCRUTINY COMMITTEE RECOMENDATIONS**

20.1 When at a meeting of the Overview and Scrutiny Committee a proposition is made, at the request of the proposer that reference to that proposition shall be included in the scrutiny section of the subsequent report to Council, such reference shall be so included in the relevant section of that report.

## **21.0 SCRUTINY TASK GROUPS**

- 21.1 The schedule of Scrutiny Task Groups proposed shall be presented to the Overview and Scrutiny Committee for consideration at least annually.
- 21.2 Upon commencement of a Scrutiny Task Group the scoping of the subject matter will be subject to consultation by the appropriate Head of Service and Cabinet Member(s) and must be approved by the Overview and Scrutiny Committee or in exceptional circumstances by the Chair and Vice Chair of Overview & Scrutiny Committee, but reported to the next meeting
- 21.3 Reports developed by the Scrutiny Task Group shall be reported to the Overview and Scrutiny Committee at the next available meeting for consideration and to make recommendations to the relevant body.

y.



## **Section 8**

# **EMPLOYMENT PROCEDURE RULES**



## SECTION 8 – EMPLOYMENT PROCEDURE RULES

### 1. Recruitment and appointment

The Head of Governance & Performance has the responsibility for advice and guidance concerning the application of the Council's Recruitment and Selection Policy, which is available via the Council's website [Jobs and Careers](#)

#### 1.1.1 Declarations

- 1.1.1.1 The Head of Governance & Performance will require a candidate for any appointment to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin of an existing councillor or officer of the Council or of the partner of such persons. This requirement will be included in any appropriate recruitment literature.

#### **Definitions from Managing Relationships Policy**

A **family relationship** is defined as the following related persons: husband, wife, civil partner, partner, girlfriend/boyfriend, child, grandchild, brother or sister, nephew or niece, grandparents or cousin. The definition includes common-law, same sex relationships, "in-laws", foster-family relationships and step-relationships.

A **close personal relationship** is defined where there is a reasonable perception that employees (or an employee and a third party including an elected Member, service user, contractor or other third party with whom the employee is in contact because of their work) are romantically or sexually involved with each other.

#### **Working Relationships from Code of conduct**

All internal and external relationships with colleagues, service users, contractors and Councillors will be conducted in a professional and respectful way.

Mutual respect between the Council's employees and its Councillors is essential to good local government. However close personal familiarity can damage the relationship and should therefore be avoided. Further details are available in the Council's Constitution with regards to Managing Officer and Member Relationships

#### **Personal Relationships code of conduct**

Council employees cannot be involved in an appointment, or be involved in any decision relating to discipline, promotion or any pay adjustments or conditions, or be in the line management hierarchy of another employee or prospective employee to whom they are related or have a close personal relationship. Employees must

declare all such relationships to their manager and must ensure compliance with all of the Council's policies relating to the recruitment and management of staff. Please refer to the Managing Personal Relationships at Work Policy and the Recruitment Policy for further information.

1.1.1.2 No candidate so related to a councillor or officer will be appointed without the written consent of the relevant Head of Service except where that post-holder is the employee to whom the candidate has declared such a relationship in which case the appropriate member of the Leadership Team (LT) will approve any proposed offer of employment in writing.

1.1.2 Seeking support for appointment.

1.1.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or any employee of the Council for that appointment with the Council. The content of this paragraph will be included in any recruitment information.

1.1.2.2 No councillor or employee of the Council will seek support for any person for any appointment with the Council. This rule shall not preclude any member or employee of the Council from giving a written testimonial of any candidate's ability, experience, or character for consideration in conjunction with an individual application, but, having given such a testimonial, that member or employee shall take no part in the short listing or interview process.

## **1.2 Recruitment of Chief Executive (Head of Paid Service)(Chief Officer)**

Where the Council proposes to appoint a Head of Paid Service or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

1.2.1 draw up a statement specifying:

1.2.1.1 the duties of the post concerned; and

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

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

1.2.3 make arrangements for a copy of the statement mentioned in paragraph 1.2.1 to be sent to any person on request.

### **1.3 Officers below Chief Officer Level**

Subject to paragraphs 1.3.1, 1.5 and 1.6, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by them except where the Local Authorities (Standing Orders) (England) Regulations 2001 provide that it must be by the Appointments Committee or Council or other body as provided for in Part 3 of the Constitution.

1.3.1 Paragraph 1.3 shall not apply to the appointment or dismissal of or disciplinary action against:-

1.3.1.1 the officer designated as the Head of Paid Service;

1.3.1.3 the Chief Finance Officer within the meaning of Section 151 of the Local Government Act, 1972

1.3.1.4 the Monitoring Officer within the meaning of Section 5 of the Local Government and Housing Act, 1989

1.3.1.5 an assistant for a political group appointed in pursuance of section 9 of the 1989 Act.

### **1.4 Appointment and Dismissal of Chief Executive (Head of Paid Service)**

#### **Appointments**

1.4.1 The appointment or dismissal of the Head of Paid Service will be made following the recommendation of the Appointments Committee, the full Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

1.4.3 An offer of an appointment as Head of Paid Service must not be made until:-

1.4.3.1 the Appointments Committee has notified the Proper Officer of the name of the person to whom it wishes to make the offer and any other particulars which the panel considers are relevant to the appointment;

1.4.3.2 the Proper Officer has notified every member of the Cabinet of:-

(a) the name of the person to whom the panel wishes to make the offer (subject to approval of the Council);

(b) any other particulars relevant to the appointment which the panel has notified to the Proper Officer; and

(c) the period within which any objection to the making of the offer is to be made to the Proper Officer by the Leader of the Council on behalf of the Cabinet; and

1.4.3.3 either -

(a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (c) above, notified the committee that neither they nor any other member of the Cabinet has any objection to the making of the offer;

(b) the Proper Officer has notified the committee that no objection was received by them within that period from the Leader of the Council; or

(c) the committee (or in the case of the appointment of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader of the Council within that period is not material or well-founded.

1.4.4 Notice of the dismissal as a result of disciplinary action, of an officer referred to in sub-paragraphs 1.3.1.1 to 1.4.3 above must not be given until –

Dismissals

1.4.4.1 the committee has notified the Proper Officer of the name of the person who it wishes to dismiss (in the case of the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer, subject to the approval of the Council) and any other particulars which it considers are relevant to the dismissal;

1.4.4.2 the Proper Officer has notified every member of the Cabinet of:-

(a) the name of the person whom the committee wishes to dismiss;

(b) any other relevant particulars relevant to the dismissal which the committee has notified to the Proper Officer; and

(c) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and

1.4.4.3 either:-

(a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (c) above, notified the

committee that neither they nor any other member of the Cabinet has any objection to the dismissal;

(b) the Proper Officer has notified the committee that no objection was received by them within that period from the Leader of the Council; or

(c) the committee (or in the case of the proposed dismissal of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader of the Council within that period is not material or well-founded.

1.4.5 The Proper Officer for the purposes of the rules shall be the Head of Corporate Services for the time being of the Council or if they are unable to act in that capacity (either due to absence or as a result of conflict of interest (e.g. prior involvement)) the Monitoring Officer.

## **1.5 Disciplinary Action/Dismissal – Members of the Leadership Team (other than the Head of Paid Service)**

1.5.1 Where the Head of Paid Service considers that the actions of any officer who is designated as a member of the Leadership Team (other than the Head of Paid Service) warrant investigation, the Head of Paid Service may suspend the relevant officer(s) pending the outcome of an investigation under the Council's disciplinary procedure, but otherwise disciplinary action against or the dismissal of any officer who is designated as a member of the Leadership Team (other than the Head of Paid Service) will be undertaken by a politically balanced panel of councillors set up for that purpose. That panel must include at least one member of the Cabinet.

1.5.2 Notice of disciplinary action against an officer identified in paragraph 1.5.1 must not be given until:-

(a) the panel has notified the Proper Officer of the name of the person who it wishes to discipline and any other particulars which it considers are relevant to the action proposed.

(b) the Proper Officer has notified every member of the Cabinet of:-

(i) the name of the person whom the panel wishes to discipline

(ii) any other particulars relevant to the disciplinary action which the panel has notified to the Proper Officer

1.5.3 Notice of the dismissal as a result of disciplinary action, of an officer referred to in paragraph 1.5.1 must not be given until:-

- (a) the panel has notified the Proper Officer of the name of the person who it wishes to dismiss and any other particulars which it considers are relevant to the dismissal;
- (b) the Proper Officer has notified every member of the Cabinet of:-
  - (i) the name of the person whom the panel wishes to dismiss
  - (ii) any other particular relevant to the dismissal which the panel has notified to the proper officer.

1.5.5 The Proper Officer for the purposes of the rules shall be as specified in paragraph 1.4.5.

## **1.6 Appeals**

Nothing in paragraph 1.3 shall prevent a member from serving on a committee or sub-committee established by the Council to consider an appeal by:-

- 1.6.1 a person against any decision relating to the appointment of that person as an employee of the Council; or
- 1.6.2 an employee of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that employee.

## **1.7 Disciplinary action - Head of Paid Service, Monitoring Officer, and Section 151 Officer**

- 1.7.1 No disciplinary action in respect of the Head of Paid Service, Monitoring Officer, or Section 151 Officer, except action described in paragraph 1.7.2, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented, or any other person acting on behalf of the Council, other than in accordance with the provisions under regulation 7 and schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- 1.7.2 The Head of Paid Service, Monitoring Officer, or Section 151 Officer may only be suspended by a politically balanced panel as referred to in paragraph 1.4.1 and such suspension shall only be for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the date of such suspension.