

# Public Document Pack

## **DRAFT CONSTITUTION**

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## DRAFT CONSTITUTION

### **Part 1 – Summary and explanation**

#### **Introduction**

*[Forest Heath introductory paragraph]:*

Forest Heath District Council is the democratically-elected body that exercises various statutory powers and duties in the district. It is divided into 14 areas known as wards and there are 27 councillors (also known as members) who are elected by the residents of those wards who are on the electoral register to represent them on the Council. Elections take place every four years.

*[St Edmundsbury introductory paragraph]*

St Edmundsbury Borough Council is the democratically-elected body that exercises various statutory powers and duties in the borough. It is divided into 31 areas known as wards and there are 45 councillors (also known as members) who are elected by the residents of those wards who are on the electoral register to represent them on the Council. Elections take place every four years.

#### **Purpose of the Constitution**

The Constitution is a document that sets out the rules and guidance for how the Council makes decisions and carries out its business. It is made up of:

- Articles – which explain the different parts of the decision-making structure and how the Council will operate;
- Responsibility for Functions – which shows which councillors and officers are responsible for which decisions;
- Rules of Procedure – which set out the way meetings will be run and the procedure for various Council functions; and
- Codes and Protocols – including codes of conduct for councillors and council staff.

The Council has to exercise its duties and powers in accordance with the law and this Constitution. Set out below is a brief summary of how the Council works.

#### **Cabinet**

The Council's decision-making structure is based on the Leader and Cabinet model. The Cabinet (also known as the Executive) will make most of the decisions about how the Council carries out its

business. The Leader is elected every four years by a vote of all councillors and he or she appoints up to *six/nine* *[insert as appropriate]* other councillors, one of whom will also be the Deputy Leader, to sit on the Cabinet and be responsible for particular areas (known as portfolios) of the Council's work.

The Council publishes a Decisions Plan which shows what decisions the Cabinet is going to take that will affect local communities or involve expenditure or savings over a certain level. The Plan also shows what decisions are going to be taken in private and why. There is more detail of how the Cabinet works in *[insert relevant part of Constitution]*.

### **Full Council**

Some decisions, such as the Council's overall budget and its main policies, have to be taken by all the councillors meeting together as the full Council. These meetings take place at least five times a year. More information about the full Council's powers and procedures can be found at *[insert relevant part of Constitution]*.

### **Regulatory committees**

The law gives the Council power to grant consents, licences and so on for such matters as planning and licensing. These powers cannot be decided by the Cabinet and are exercised instead by committees of the Council. What these committees are and what they do is set out in *[insert relevant part of Constitution]*.

### **Scrutiny**

The Council has two committees whose job is to oversee the work of the authority. Overview and Scrutiny Committee can 'call in' Cabinet decisions for examination and it will also help the Council develop its policies. It can set up smaller groups to work on reviews and projects.

The Performance and Audit Scrutiny Committee has responsibility for monitoring the Council's performance. It also audits and makes recommendations for how the Council should spend its budget.

Further details of the work of these committees can be found in *[insert relevant part of Constitution]*.

## **Standards**

There is a Joint Standards Committee comprising members of Forest Heath and St Edmundsbury councils. It is responsible for upholding high ethical standards in West Suffolk, including monitoring compliance with the Code of Conduct by all district, borough, town and parish councillors in the area. Further details can be found at *[insert relevant part of Constitution]*.

## **Staff**

The Council has people working for it, sometimes referred to as 'officers'. They perform a number of different roles, ranging from delivering the Council's services direct to the public, to giving professional advice, implementing decisions and managing the working of the Council. Some officers have specific duties to ensure that the Council acts within the law. Officers operate in a politically neutral way, which councillors must respect. A protocol governs the relationship between councillors and officers. Officers do not vote on decisions made by the Council, Cabinet or its committees.

## **Joint working**

Forest Heath and St Edmundsbury work in partnership to provide a more efficient service for the people of West Suffolk. The Chief Executive, senior managers and most staff work across both authorities. Councillors also work together, for example by holding joint meetings of the Cabinet and scrutiny committees, where they are considering matters relevant to both council areas. The Constitution sets out procedures for these joint meetings.

## **The public's rights**

Residents of the Council's area have a number of rights in their dealings with the Council. Some are set out in law, others depend on the Council's own processes. Article 3 sets them out in more detail, but in brief they include:

- the right to elect the councillors who will represent them on the Council, and to contact any member of the Council about matters that concern them;
- access to Council documents such as this Constitution, policies, the Decisions Plan, reports, minutes and records of decisions made (subject to limited exceptions for things that the law permits the Council to treat as confidential);

- the right to attend open meetings of the Council, Cabinet and committees and to speak at those where the Council's procedures allow public participation; and
- making their views known to the Council, whether as a comment, complaint or compliment or in response to a consultation.

The Council welcomes participation by the public in its work and aims to make its processes as transparent as possible. For further information on your rights, please contact the Council's Monitoring Officer. *[Link to be inserted in final version]*

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## **Article 1 – The Constitution**

### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Forest Heath District Council/St Edmundsbury Borough Council *[as appropriate]*.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- a) enable the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations and in accordance with the Council's vision and priorities;
- b) support the active involvement of local people in the Council's decision-making process;
- c) help councillors represent people in their wards more effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services.

### **1.4 Interpretation and review of the Constitution**

- 1.4.1 The Rules of Procedure which form *[Part ... ]* of the Constitution provide mechanisms for interpreting and operating the Constitution, including in cases of dispute.
- 1.4.2 In the Constitution, the term 'Cabinet' should be taken to mean 'Executive' (and the other way round).

- 1.4.3 Where the Constitution permits the Council to choose between different courses of action, the Council will choose the option which it thinks ~~is closest to the purposes stated above.~~ **will be most likely to achieve the purposes set out in 1.3 above**
- 1.4.4 The Council will monitor and evaluate the operation of the Constitution as set out in *[Article ... ]*.

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## **DRAFT Constitution**

### **Article 2 – Members of the Council**

#### **2.1 Composition and eligibility**

##### *[Forest Heath]*

The Council comprises 27 councillors who are elected by the voters in the district. There are 14 wards in the district and one or more councillors will be elected to each ward in line with a scheme which was drawn up by the Electoral Commission and approved by the Secretary of State.

To be eligible to stand for election as a councillor, a person must be registered to vote in the district, or live or work there.

##### *[St Edmundsbury]*

The Council comprises 45 councillors who are elected by the voters of the borough. There are 31 wards in the borough and one or more councillors will be elected to each ward in line with a scheme which was drawn up by the Electoral Commission and approved by the Secretary of State.

To be eligible to stand for election as a councillor, a person must be registered to vote in the borough, or live or work there.

#### **2.2 Elections and term of office**

The regular election of councillors is held on the first Thursday in May, every four years. The term of office of councillors will start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

#### **2.3 Roles and functions of councillors**

These are set out in the ward councillor job description which forms Appendix [...] to the Constitution.

The extra responsibilities of the Leader and Cabinet are set out in [ ... ]

#### **2.4 Rights and duties**

2.4.1 Councillors have rights of access to Council documents, information, land and buildings as are necessary for them to be able to carry out their role properly and in accordance with the law.

2.4.2 Councillors will not make any information public if it is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

2.4.3 For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules contained in [Part ..] of the Constitution.

## **2.5 Conduct**

Councillors will at all times observe the members' code of conduct and the protocol on member/officer relations set out in [Part ...] of the Constitution.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the members' allowances scheme set out in [Part ...] of the Constitution.

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## Article 3 – The public and the council

### 3.1 The public's rights

The public has the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in [Part ... ] of the constitution.

- a) **Referendums** – residents who are on the electoral register for the area may sign a petition to request a referendum for an elected mayor form of constitution. They may then vote in that referendum, which will take place if at least 5% of the electorate sign that petition.
- b) **Information** – the public has the right to:
  - i. obtain a copy of the council's constitution;
  - ii. attend meetings of the full Council, Cabinet and committees except where confidential or exempt information is likely to be discussed and the meeting is, for that reason, held in private;
  - iii. see the Decisions Plan to find out what key decisions will be taken by the Cabinet, its committees, or officers, and when;
  - iv. find out from the Decisions Plan when the Cabinet, its committees or officers will consider any matters in private;
  - v. see reports and background papers, and any records of decisions made by the full Council, Cabinet or officers subject to the usual rules regarding confidential or exempt information;
  - vi. inspect the council's accounts and make their views on them known to the external auditor.
- c) **Participation** – the public has the right to address the Development Control and Licensing and Regulatory Committees on specific applications and contribute, by invitation, to investigations and public inquiries undertaken by the scrutiny committees. People who live in the council's area have the right to participate in public question time at full Council meetings.
- d) **Complaints** – the public has the right to complain to:
  - i. the council itself under its complaints scheme [*insert link*];

- ii. the Local Government Ombudsman, if the complaint has not been resolved by the council's own complaints scheme;
  - iii. the Monitoring Officer about a breach of the Members' Code of Conduct.
- e) **Whistleblowing** – the public has the right to bring to the council's attention any concerns about corruption or bad practice. Details are available in the Whistleblowing Policy *[insert link]*

### **3.2 The public's responsibilities**

The public must not be violent, abusive or threatening to councillors or to the council's employees and must not wilfully harm things owned by the council, councillors or council employees.

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## **Article 4 – the full Council**

### **4.1 Meaning**

The Council means every councillor of *Forest Heath District Council/St Edmundsbury Borough Council* meeting **together** . By law, there are some things that only the Council has the power to do and other matters are allocated to the Council by this constitution.

### **4.2 Functions of the Council**

Only the Council **meeting as a whole** will exercise the following functions:

- a. Adopting and changing the constitution.
- b. Approving and adopting the policy framework (see below).
- c. Approving and adopting the budget (see below).
- d. Approving for the purposes of public consultation draft proposals associated with the preparation of or alterations to, or the replacement of, the local development framework.
- e. Subject to the urgency procedure set out in [ ... ] making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- f. Electing the Leader, removing him/her by resolution and electing a replacement in accordance with Article [ ... ].
- g. Approving proposals from committees of the Council for their terms of reference and any changes to them.
- h. Determining the political balance of the council and the allocation of seats in accordance with it or (by unanimous vote) in some other way as the Council sees fit.
- i. Adopting a Members' Allowance Scheme.
- j. Appointing councillors to outside bodies unless this is a function of the Cabinet or has been delegated by the Council.
- k. Approving the appointment or dismissal of the Head of Paid Service, and discharging, or arranging for the discharge of, functions relating to the appointment of, disciplinary actions in relation to, or dismissal of, the statutory officers and chief officers.
- l. Changing the name of the area.
- m. Any Electoral matters requiring a decision by the Council.

- n. Conferring the title of Honorary Alderman or the Honorary Freedom of the Borough/District.
- o. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- p. All local choice functions set out in Part 3 of this constitution which the Council decides should be taken by itself rather than the Cabinet.
- q. All other matters which, by law, must be reserved to the Council.

### **4.3 Council Meetings**

There are four types of Council meeting:

- a. the Annual Meeting;
- b. ordinary meetings;
- c. extraordinary meetings; and
- d. special meetings

and these will be conducted in accordance with the law and with the Council procedure rules set out in [Part ... ] of this constitution.

### **4.4 The policy framework**

The policy framework means the following plans and strategies:

- a) those required by legislation to be adopted by the Council;
- b) policies and strategies which the Government recommends should be adopted by the Council; and
- c) policies and strategies to be adopted by the Council as a matter of local choice.

The above policies and strategies include:

- corporate or strategic plan
- plans and strategies which together comprise the local plan
- asset management plan
- pay policy statement
- corporate enforcement policy
- Licensing Act statement of policy
- Gambling Act statement of principle

Plus high-level strategies relating to:

- Housing
- Families and Communities
- Waste
- Economic development and growth

- Sustainable development
- Equality
- Customer Access

It may also be appropriate for some regional or sub-regional policies or strategies to be considered by full Council, to be decided on a case-by-case basis.

#### **4.5 The budget**

The Council will be responsible for the adoption of its budget. Once the budget is in place it will be the responsibility of the Cabinet to implement it.

The budget comprises:

- revenue budget
- capital programme
- medium term financial strategy (covering revenue and capital)
- prudential indicators including borrowing limits
- treasury management and investment strategy

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the council's borrowing requirements, its investments and the control of its capital expenditure and the setting of virement limits.

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## Article 5 – Chairing the Council

Changes shown in red are recommendations of the Joint Constitution Working Group

### 5.1 Role and function of the [*Chairman/Mayor – as appropriate*]

The Chairman and Vice-Chairman [*or Mayor and Deputy Mayor*] will be elected annually by the Council.

Neither the Chairman nor the Vice-Chairman [*or Mayor nor Deputy Mayor*] may be a member of the Cabinet.

The Chairman [*Mayor*] and in his/her absence the Vice-Chairman [*Deputy Mayor*] have the following roles.

### 5.2 Procedural role

The Chairman [*Mayor*] will:

- a. chair meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- b. uphold and promote the purposes of the constitution and interpret the rules of procedure at full Council meetings;
- c. ensure that full Council meetings are a forum for the debate of matters of concern to the community and one of the places at which councillors who are not on the Cabinet are able to hold the Cabinet to account;
- d. exercise a casting vote in the event of a tie at a full Council meeting with complete freedom of conscience.

### 5.3 Civic and ceremonial role

The Chairman [*Mayor*] is the ceremonial head of the council and will be its representative at civic and ceremonial events. He/she maintains an apolitical stance, especially when chairing full Council meetings. This part of the role includes:

- a. representing **and promoting** the whole [*district/borough*] during his/her term of office;
- b. ~~enhancing the image~~ **guarding the reputation** of the [*district/borough*]
- c. encouraging understanding of the council's role, priorities and partnerships

d. promoting public involvement in the council's activities.

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## Article 6 – the Cabinet

Changes in *red* are amendments proposed by the Joint Constitution Review Group

### 6.1 Role

6.1.1 The Leader and Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this constitution.

### 6.2 Form and Composition

6.2.1 The Cabinet will be chaired by the Leader. It will comprise the Leader and **no fewer than two and up to nine\*** other councillors appointed to the Cabinet by the Leader, one of whom shall be designated Deputy Leader and all of whom are to be known as Portfolio Holders. Only councillors will be appointed to the Cabinet. There will be no co-optees, no deputies and no substitutes for Cabinet members. The Leader and Portfolio Holders may not be members of any scrutiny committee. The Chairman and Vice-Chairman [*Mayor and Deputy Mayor*] of the Council may not be members of the Cabinet.

**\*This is the statutory maximum and is in the current SEBC constitution. FHDC are recommended to include this to allow maximum flexibility for the size of Cabinet..**

### 6.3 The Leader

6.3.1 The Leader will be a councillor elected to the position by the Council at its first annual meeting following the local government elections. The Leader will hold office until

- a. The next post-election annual meeting of the Council; or
- b. He/she resigns from the office of Leader; or
- c. He/she is removed from office by ordinary resolution on notice of the Council; or
- d. He/she is no longer a councillor.

6.3.2 When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a special or extraordinary meeting summoned for the purpose; or, if the vacancy occurs as a result of the removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed or a subsequent meeting. The councillor appointed to

fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

6.3.3 The Leader shall appoint another member of the Cabinet as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if he or she thinks fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a member of the council, the Deputy Leader shall hold office until the end of the Leader's term of office.

6.3.4 The Leader remains a member of the Council during his or her term of office as Leader and any enactment that provides for him or her to retire earlier as a councillor does not apply.

#### **6.4 Other Cabinet Members (the Portfolio Holders)**

6.4.1 The Leader will usually announce the Portfolio Holders at the annual meeting of the council. Re-appointments, appointments and the removal of Portfolio Holders announced in this way will take immediate effect. If the announcement is not made at the annual meeting, the Leader will give written notice to the Monitoring Officer of the Portfolio Holders as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.2 The Leader may also appoint Portfolio Holders during the municipal year to fill any vacancy or increase the size of the Cabinet (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.3 Portfolio Holders shall hold office until:

- a. they resign from office; or
- b. they are no longer councillors; or
- c. they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or
- d. they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.4 If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act of the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Portfolio Holder to act in his/her place.

### **6.5—Cabinet Support Members\***

~~From time to time the Leader may designate other councillors as Cabinet Support Members for a particular activity or range of activities. Such councillors will not be members of the Cabinet, cannot make executive decisions, cannot substitute for Portfolio Holders and will not receive special responsibility allowances, but will work with the relevant Portfolio Holder on the activities identified by the Leader. Where the Leader designates a councillor as a Cabinet Support Member, notification shall be made to the Monitoring Officer who will keep a record of such designations.~~

*\*This provision appears in the Forest Heath constitution but there is no equivalent in St Edmundsbury's, although equivalent roles have existing since 2002. SEBC members are asked to consider if they wish now to include it formally.*

### **6.6 Functions of the Cabinet**

6.6.1 The Cabinet has the following functions:

- a. to make 'key decisions' as defined in Article 12 and published in the decisions plan;
- b. to formulate the budget and policy framework for submission to Council in accordance with the budget and policy framework procedure rules in Part 4 of the constitution;
- c. to implement the approved budget and policy framework;
- d. to determine recommendations and other matters referred to it by committees, sub-committees or council;
- e. to carry out all of the functions which by law the executive must carry out or has chosen to carry out\* and which have not been delegated elsewhere;
- f. to ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28 days before the decision is due to be made.

*\*Please note that draft regulations concerning what functions may or may not be carried out by Council or Cabinet have just gone out to consultation. There may be some changes to Article 6 and other parts of the draft constitution which are necessary as a result of the*

*regulations that eventually come into law, but officers do not expect these to be major ones.*

6.6.2 The Cabinet may carry out its functions:

- a. itself;
- b. by delegating power to an individual member of the Cabinet, to be exercised in accordance with the rules in Appendix B to this Article 6;
- c. by delegating power to an officer, who shall exercise that power in accordance with the scheme of delegation to officers contained in Part 3 of the constitution;
- d. by delegating power to a joint committee, area committee or another local authority.

6.6.3 The list of portfolio responsibilities will be maintained by the Leader and will set out which individual members of the Cabinet, officers and joint arrangements are responsible for the exercise of particular Cabinet functions. The full list is in Part 3 of the constitution and a brief list of portfolio responsibilities forms Appendix A to this Article 6. The Leader is empowered to amend the portfolios during the administrative year.

## **6.7 Meetings of the Cabinet**

6.7.1 The Cabinet will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Cabinet Procedure rules set out in Part 4 of the constitution. Meetings will usually be held at *[West Suffolk House, Bury St Edmunds/the District Council Offices in Mildenhall]* but can be held at other locations agreed by the Leader.

6.7.2 To ensure it is briefed and/or consulted upon its functions, the Cabinet may hold other informal (not public) meetings as are necessary for it to carry out its work effectively. However, to ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to Cabinet or Council for decision will, unless a decision is required urgently, be included in the decisions plan which is referred to the appropriate committee (normally a scrutiny committee) before a recommendation is made to Cabinet/Council (*see paragraph X of Article 7 Overview and Scrutiny*).

*This is a new provision for the constitution which was recommended by the Joint Constitution Review Group and approved by Councils to*

*ensure that the role of cabinet planning meetings is formalised as part of the decision-making process. The suggested means of doing this is to make better use of the decisions plan process. The scrutiny committee will be able to request more information or formal involvement in any decision-making for any matter on the plan. Part of developing this process will be seeking the feedback of the scrutiny committees on the level of detail they need in the decisions plan.*

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## **Appendix A**

### **List of Portfolio Responsibilities**

*[list here the portfolios and what responsibilities are included in each]*

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## Appendix B

### Procedure for decision-making by individual Portfolio Holders

*The procedure set out below is, with minor amendments highlighted, that which already applies to Portfolio Holders at Forest Heath.*

**1.** Individual Cabinet members are empowered (subject to the exceptions listed below) to make Cabinet decisions within the Policy and Budget Framework in respect of their own portfolio area of responsibility.

The exceptions are as follows:

1.1 A decision that is a departure from the agreed Strategic Plan except where this falls within current agreed policy.

1.2 Decisions solely in relation to the Cabinet Member's own ward including, for example, making a grant, unless this is agreed by the Leader. This does not prevent the use of the Cabinet Member's Locality Budget.

1.3 Where the Leader has indicated before a decision is either taken by the Portfolio Holder or implemented that he requires the decision to be taken collectively by the Cabinet. Notification of this by the Leader must be made to the Head of HR, Legal & Democratic Services.

1.4 A decision in which the Cabinet member has either a disclosable pecuniary interest or some other conflict of interest.

1.5 Those decisions delegated to an officer unless the officer refers the decision to the Cabinet member.

1.6 A decision which in the view of the Chief Executive is one which should properly be treated as a key decision.

**2.** The Cabinet may delegate any decision to an individual Cabinet member who must then follow the procedure in this document in making that decision.

**3.** The decisions must be made in consultation with officers deemed appropriate by the Chief Executive and the Cabinet member must

take into account the professional, legal and financial implications and any advice given by those officers.

**4.** Where there are significant cross-cutting implications the decision should be made in consultation with other appropriate portfolio holder(s).

**5.** Where a decision has significant impact on an individual ward the Cabinet member should consult the appropriate ward member.

**6.** Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

### **Notification and Publication**

Wherever possible, 5 clear working days' notice of the intention to make a decision under these delegated powers will be given to all Members of the Council, by notice sent electronically and published on the Council website together with any supporting report. Where 5 clear working days' notice is not practicable for exceptional reasons relating to the urgent need to action the decision the Cabinet Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.

The decision must be recorded on the appropriate form prepared and published by **Democratic** Services. The decision will be published and may not be implemented until after either:

- the call-in period (5 working days after the date of publication) has expired; or
- a call-in process has been completed.

Call-in, using the procedure in the Council Procedure Rules, may be made within 5 days of the decision being published and the usual process shall be followed.

## ARTICLE 7 - OVERVIEW AND SCRUTINY COMMITTEES

Amended draft 5/3/15

*Drafting note: words in [italics in brackets] are each Council's variations and the appropriate one will be inserted in each constitution. **Highlighted** items are those where there is a choice to be made and views are sought.*

*Parts in **red** are amendments made at the meeting of the Joint Constitution Working Group on 4 March 2015.*

### 7.1 Introduction

7.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The council has appointed an Overview and Scrutiny Committee and a Performance and Audit Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations. **Forest Heath and St Edmundsbury Councils ~~will~~ may also appoint joint overview and scrutiny committees to exercise those functions with regard to matters that affect both councils.\*** The committees will discuss issues in public and take a cross-cutting approach to their work. In accordance with section 9FA of the above Act they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:-

- (a) holding the Cabinet to account for its actions;
- (b) advising on the development and implementation of new policy and corporate projects;
- (c) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
- (d) ensuring the rigour and objectivity of performance management and service reviews.

7.1.2 The Performance and Audit Scrutiny Committee will have the specific role of monitoring the budget, and it oversees the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring. It approves the Council's Statement of Accounts and is also the Council's audit committee. This Committee also carries out the Treasury Management functions set out in detail in the Overview and Scrutiny Procedure Rules in Part 4 of this constitution.

***\*[One of the member recommendations for the new constitution is that there be provision for joint scrutiny meetings. Section 9F LGA 2000 permits two or more councils to appoint joint overview and scrutiny committees. The wording included here is intended as a statement of that intention, but it will be a matter for each council to decide on any joint***

*committee's composition and terms of reference, and to make a recommendation to each Council to appoint to that joint committee. This does not prevent the current practice of both O&S committees holding meetings together at which decisions are taken separately, a process which should be made easier by there being common Rules of Procedure].*

## **7.2 The Overview and Scrutiny Committee**

7.2.1 The Council will appoint an Overview and Scrutiny Committee of up to [10/16] members, or as many as Council determines from time to time, and [will not/will] be politically balanced. No member of the Cabinet may be a member of the Overview and Scrutiny Committee.

7.2.2 The primary purpose of the Committee is to improve the delivery of policies and services. To do this it will exercise the following **General Role**:

- (a) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions (subject to 7.9.1(h) below);
- (b) make reports and recommendations to the Council and the Cabinet in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) question Members of the Cabinet and officers about their views on issues and proposals affecting the area;
- (e) liaise with external organisations operating in the area, whether national, regional or local, to ensure the interests of local people are enhanced by collaborative working;
- (f) exercise the right to "call in", for reconsideration, decisions made but not yet implemented by the Cabinet, in accordance with the rules set out in Part 4 of this Constitution; and
- (g) consider any Councillor Calls for Action referred to it in accordance with the Protocol set out in Part 5 of this Constitution;
- (h) consider any matter which has been placed on the agenda of the committee by any member of the committee in accordance with the rules of procedure in Part 4 of this Constitution;
- (i) act as the crime and disorder committee for the purposes of section 19 of the Police and Justice Act 2006.

### **7.2.3 Scrutiny Role**

Within its terms of reference, the Overview and Scrutiny Committee may:-

- (a) review and scrutinise the decisions made by, and the performance of, the Cabinet, Committees and Council officers both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas, and carry out performance management reviews;

- (c) review the adequacy of policies and practices to ensure compliance with statutory and other guidance;
- (d) question Members of the Cabinet, Committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (e) make recommendations to the Cabinet and/or the appropriate Committee arising from the scrutiny process;
- (f) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance and issues of wider concern;
- (g) question and gather evidence from any person (with their consent);
- (h) assist the Council and the Cabinet in the development of the policy framework by detailed analysis of policy issues and options, including research, and community and other consultation;
- (i) consider and implement mechanisms to encourage and enhance community participation in the development of policy options; and
- (j) consider how collaborative working with external organisations can enhance the interests of local people.

7.2.4 For specific issues, the above work can be carried out by task and finish groups, which will be appointed and managed by the Committee. These groups will draw upon the knowledge and expertise of all Members of the Council.

### **7.2.5 Holding the Cabinet to Account**

The Overview and Scrutiny Committee will hold the Cabinet to account for the discharge of its functions. The principal elements by which it will do this are as follows:

- (a) scrutinising decisions which the Cabinet is planning to take, as set out in the Decisions Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 6.7.2 of Article 6);
- (b) scrutinising decisions of the Cabinet and individual portfolio holders before they are implemented and if necessary using the “call-in” mechanism to require the decision taker to reconsider the earlier decision;
- (c) scrutinising decisions of the Cabinet or Portfolio Holders after they have been implemented as part of a wider review.

### **7.3 Performance and Audit Scrutiny Committee**

7.3.1 The Council will also appoint a Performance and Audit Scrutiny Committee of up to ten members, which [*will not/will*] be politically balanced. Within its terms of reference the Committee will monitor and scrutinise the performance of the Council’s services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports, and

monitoring of action plans. No member of the Council's Cabinet may be a member of the Performance and Audit Scrutiny Committee.

7.3.2 The Committee will also assist the Council and the Cabinet in the development of the budget framework, and act as the Council's Audit Committee, and the nature of this role is specified in the Procedure Rules in Part 4 of this Constitution.

## **7.4 Finance**

7.4.1 The Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee may exercise overall responsibility for any finances made available to them.

## **7.5 Annual Report**

7.5.1 The Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee must report annually to the full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **7.6 Officers**

7.6.1 The Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee may exercise overall responsibility for the work programme of any officers employed to support their work.

## **7.7 Proceedings of the Committees**

7.7.1 The Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **7.8 Work Programme**

7.8.1 The Rules of Procedure in Part 4 of this Constitution will also provide mechanisms to allow all Members of the Council the opportunity to place an item on the agenda of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee.

7.8.2 When practicable, the Overview and Scrutiny Committee will publish a forward work programme or list of items likely to be considered over the next four months.

## **7.9 Working Methods**

7.9.1 The following principles should be adhered to by the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee when carrying out their work:-

- (a) a variety of different approaches and formats for meetings may be used;
- (b) 'task and finish' groups reporting periodically and at the end of reviews to the Overview and Scrutiny Committee should be encouraged as the preferred method of scrutiny reviews;
- (c) membership of the Committees and their sub groups (if applicable) should be tailored to ensure appropriate skills and expertise, and external input, are brought to bear;
- (d) when appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (e) the declaration of interest rules shall apply;
- (f) the imposition of the Party Whip is regarded as incompatible with the work of the Council's Scrutiny Committees;
- (g) the ~~chairmen and Vice-Chairmen of the Scrutiny Committees~~ **chairman and vice-chairman of each Scrutiny Committee** will meet at least quarterly with the Leader and Deputy Leader of the Council to ensure that the work of these Committees is properly co-ordinated; and
- (h) where any Scrutiny Committee is reviewing the work of a Regulatory or other Committee of the Council (as opposed to the Cabinet) it will not scrutinise individual decisions made by such Committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular, scrutiny will not be an alternative to normal appeals procedures. However, the Overview and Scrutiny Committee has the power to make reports and recommendations on functions which are not the responsibility of the Cabinet, an option normally to be used as part of wider policy reviews.

## **7.10 Support**

7.10.1 In order that the Overview and Scrutiny Committee can perform its roles properly, it shall be given the following support:-

- (a) effective and properly resourced support from officers;
- (b) appropriate financial resources;
- (c) access to the advice of the Council's Monitoring Officer;
- (d) the ability to require Members of the Cabinet and officers to attend to answer questions;
- (e) specific training and development for all persons who undertake overview and scrutiny duties; and
- (f) the Decisions Plan, containing details of all the matters likely to be the subject of key decisions, or to be considered in private by the Cabinet, or its Committees or by officers, shall be made available to all Members of the Overview and Scrutiny Committee.

7.10.2 In order that the Performance and Audit Scrutiny Committee can perform its role properly it shall also be given the following support:-

- (a) effective and properly resourced support from officers;
- (b) appropriate financial resources;
- (c) access to external auditors who report direct to the Committee and to the Internal Audit Service Manager; and
- (d) specific training and development as required.

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## **ARTICLE 8 – REGULATORY COMMITTEES**

### **8.1 Regulatory Committees**

8.1.1 The Council must appoint Committees to deal with functions such as licensing, town and country planning controls and any other functions which by law are not to be functions of the Cabinet or Council. Although a brief summary of their main areas of work is set out below, all the functions discharged by these Committees is set out in detail in Part 3 of this Constitution.

### **8.2 Development Control Committee**

8.2.1 This Committee is responsible for matters relating to the control of the use of land including planning and listed building consent, the preservation of buildings and trees, conservation areas and enforcement.

### **8.3 Licensing and Regulatory Committee**

8.3.1 This Committee's responsibilities include regulating the sale of alcohol, the provision of public entertainment and gambling, and taxis/private hire vehicles and drivers.

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## **ARTICLE 9 - THE JOINT STANDARDS COMMITTEE**

### **9.1 Standards Committee**

9.1.1 This is a Joint Committee between St Edmundsbury Borough Council and Forest Heath District Council.

9.1.2 Political balance rules do not apply to this Committee.

### **9.2 Membership**

9.2.1 The Joint Committee will comprise six Members, three appointed by each authority.

9.2.2 The quorum of the Joint Committee will be three Members.

### **9.3 Role and Function**

9.3.1 The Joint Standards Committee will have the roles and functions set out in Part 3 to this Constitution, Responsibility for Functions.

9.3.2 The Joint Standards Committee will not cover the conduct of officers, for which separate provisions apply.

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## **ARTICLE 10 - JOINT ARRANGEMENTS AND WORKING GROUPS**

### **10.1 Arrangements to Promote Wellbeing**

10.1.1 The Council or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area or to carry out activities under the general power of competence may:-

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body;

subject in all cases to compliance with statutory requirements.

### **10.2 Joint Arrangements**

10.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with such other local authorities.

10.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with such other local authorities.

10.2.3 Except as set out in 10.2.4 below, the Cabinet may only appoint Cabinet Members to a joint committee and those Members need not reflect the political balance of the Council as a whole.

10.2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in **any of** the following cases:

1. where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Member for a Ward which is wholly or partly contained within that part of the area of the Council.
2. the joint committee is discharging a function in relation to five or more authorities;
3. the function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee.

The political balance requirements do not apply to such appointments.

10.2.5 Details of any joint arrangements, including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **10.3 Working Groups**

10.3.1 The Council, Cabinet or Committees may appoint from time to time such working groups as they think fit, including joint working groups with [St Edmundsbury/Forest Heath]. The working groups which have been appointed are identified in Part 3 of this constitution.

10.3.2 The Code of Conduct for Members will apply to councillors participating in a working group.

### **10.4 Access to Information**

10.4.1 The Access to Information Rules in Part 4 of this Constitution apply to any joint arrangements.

10.4.2 If all the members of a joint committee are members of the **executive Cabinet** in each of the participating authorities then the Access to Information regime of the joint committee will be the same as that applied to executives.

10.4.3 If the joint committee contains members who are not on the **executive- Cabinet** in any participating authority, then the Access to Information Rules in Part VA of the Local Government Act 1972 (as amended) will apply.

### **10.5 Delegation to and from Other Local Authorities**

10.5.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

10.5.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

10.5.3 The decision whether or not to accept similar delegations from another local authority shall be reserved to the full Council.

### **10.6 Contracting Out**

10.6.1 The Council (in respect of functions which are not the responsibility of the Cabinet) and the Cabinet (in respect of executive functions) may contract out to another body or organisation any functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the

Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

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## ARTICLE 11 - OFFICERS

Amendments in red were proposed by the Joint Constitution Working Group on 5 March 2015

### 11.1 Management Structure

11.1.1 ~~Appointment of staff cannot be the responsibility of the Executive.~~ Appointment of staff below Chief Officer level must be the responsibility of the Head of Paid Service or his/her nominee.

(a) **General** - The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

(b) **Chief Officers** - The Council will engage persons who will be designated Chief Officers as described in the Officer Employment Procedure Rules in Part 4 of this Constitution. The appointment of Chief Officers, other than the Head of Paid Service, will be undertaken on the Council's behalf by the Joint Officer Appointments Committee.

(c) **Head of Paid Service, Chief Finance Officer (s151 Officer) and Monitoring Officer** – the Council will in the Scheme of Delegation to Officers in Part 3 of this constitution designate officers to these posts.

Such posts will have the functions described in Article 11.2 - 11.4 below. The duties of the Monitoring Officer and the Chief Finance Officer can be carried out by a deputy, nominated by them, in cases of absence or illness; and

(d) **Structure** - The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and the deployment of officers. This is set out as Part 7 of this Constitution.

### 11.2 Functions of the Head of Paid Service

11.2.1 **Discharge of functions by the Council** - The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of officers required for the discharge of functions and the organisation of these officers.

11.2.2 **Restriction on functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 11.3 Functions of the Monitoring Officer

11.3.1 **Monitoring the Constitution** - The Monitoring Officer will monitor and evaluate the operation of the Constitution to ensure that its aims and principles are given full effect.

**11.3.2 Ensuring lawfulness and fairness of decision-making** - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, the Cabinet (in relation to an executive function) or the relevant committee if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**11.3.3 Supporting the Joint Standards Committee** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Standards Committee.

**11.3.4 Conducting investigations** - The Monitoring Officer will conduct investigations into complaints referred by the Monitoring Officer and Independent Person and make reports or recommendations in respect of them to the Joint Standards Committee.

**11.3.5 Access to Information** - The Monitoring Officer will ensure that there are procedures in place for Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers, to be made publicly available as soon as possible.

**11.3.6 Advising whether Executive decisions are within the budget and the policy framework** - The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

**11.3.7 Providing advice** - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

**11.3.8 Restriction on posts** - The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **11.4 Functions of the Chief Finance Officer**

**11.4.1 Ensuring lawfulness and financial prudence of decision-making** - After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

11.4.2 **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

11.4.3 **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

11.4.4 **Providing advice** - The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

11.4.5 **Give financial information** - The Chief Finance Officer will ensure that financial information about the Council is provided to the media, members of the public and the community.

### **11.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

11.5.1 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **11.6 Conduct**

11.6.1 Officers will comply with the Officers' Code of Conduct and the protocol on officer/Member relations set out in Part 5 of this Constitution.

### **11.7 Employment**

11.7.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

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## **ARTICLE 12 - DECISION-MAKING**

*Text shown in red is an amendment made by the Joint Constitution Working Group at its meeting on 4 March 2015*

### **12.1 Responsibility for Decision-Making**

12.1.1 The Council will issue, and keep up-to-date, a record of what part of the Council or individual has responsibility for particular types of decisions and decisions relating to particular areas of functions. This record is set out in Part 3 of this Constitution.

### **12.2 The Principles of Decision-Making**

12.2.1 All decisions of the Council will be made in accordance with the following principles:-

- (a) the decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement;
- (b) the decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded;
- (c) in the case of 'quasi-judicial' decisions (e.g. a decision as to whether or not to grant a licence) a fair hearing conducted in accordance with the rules of natural justice should be afforded to the person who is the subject of the decision;
- (d) the decision must be proportionate (i.e. the action should be proportionate to the desired outcome);
- (e) decisions should be taken on the basis of due consultation and professional advice from officers;
- (f) human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights;
- (g) decisions must be taken in compliance with Council's schemes of delegation, financial rules and instructions relating to contracts;
- (h) when making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed;
- (i) careful consideration should always be given as to whether there is an interest that should be declared; and
- (j) in the case of executive decisions taken by the Cabinet, or an individual Member of the Cabinet, or an Officer (where the decision is closely connected with the Cabinet), a proper record of the

decision must be made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.

### 12.3 Types of Decision

12.3.1 **Decisions reserved to Council** - Decisions relating to the functions listed in Article 4.2 will be made by the whole Council and not delegated.

#### 12.3.2 **Key Decisions** (see footnotes)

- (a) A "key decision" means an executive decision which, pending any further guidance from the Secretary of State, is likely to:-
- (i) be significant in terms of its effects on communities living or working in an area ~~comprising two or more Wards~~ in the Borough/District<sup>1</sup>; or
  - (ii) result in any new expenditure, income or savings of more than £50,000 in relation to the Council's revenue budget or capital programme<sup>2</sup>; or
  - ~~(iii) require the acquisition or disposal of any land or interest in land in excess of a value of £300,000<sup>3</sup>; or~~

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<sup>1</sup> This is from the SEBC constitution, and was in the initial national guidance. It is used almost universally by local authorities as it focuses on the impact of a decision on residents.

<sup>2</sup> £50,000 is the existing SEBC limit (FHDC chose £25,000 as their initial limit, as SEBC did when adopting the cabinet model in 2002). Looking at some neighbouring councils using a cabinet model, the following defined limits apply:

- South Norfolk - gross full year effect of £100,000 or 10% of the Council portfolio's net budget;
- Ipswich - revenue savings of £50,000; new revenue spending of £100,000; or capital spending of £250,000;
- Waveney - £100,000;
- Suffolk Coastal - £50,000;
- South Cambs - "significant" ; not defined as a sum;
- Breckland - "significant"; not defined as a sum.

Not included in the new proposed definition of a key decision are any provisions relating to changes to the staff establishment. While mentioned in the FHDC constitution at present, this has never been included in the SEBC version; other delegations to cabinet and the officers already cover this matter fully so it is not needed e.g. the financial thresholds for a key decision and the Council's adopted staff policies. Cabinet cannot act outside of these other provisions.

<sup>3</sup> Could be deleted if desired. This is taken straight from the FHDC constitution, and is not in the SEBC model. In practice, major asset decisions are likely to be included in asset management plan reports, or to be the subject of reports to Cabinet under the other key decision definitions.

- (iv) comprise or include the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown.<sup>4</sup>

~~(b) Wherever practicable, a decision which has a significant impact on people living or working in a single Ward will be treated as a key decision.~~

(c) A decision taker may only make a key decision in accordance with the requirements of the Executive procedure rules set out in Part 4 of this Constitution.

## **12.4 Urgent key decisions**

12.4.1 Provisions for taking key decisions in cases of urgency where they have not been included in the decisions plan are set out in the Access to Information Procedure Rules in Part 4 of this constitution.

## **12.4 Decision-Making by the Full Council**

12.4.1 Subject to Article 12.8, the Council meeting will follow the Council procedure rules set out in Part 4 of this Constitution when considering any matter.

## **12.5 Decision-Making by the Cabinet**

12.5.1 Subject to Article 12.8, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **12.6 Decision-Making by the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee**

12.6.1 The Council's Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **2.7 Decision-Making by Other Committees and Sub-Committees Established by the Council**

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<sup>4</sup> The FHDC constitution also includes two other definitions:

- (i) "decisions which raise new issues of policy". This is not included since Article 6 only empowers the Cabinet to operate within the adopted policy framework, and also indicates that Cabinet's role is to formulate policy for council adoption. So this is implicit. Also, significant matters of new policy would also be captured by (a) (i) and (ii);
- (ii) "decisions contrary to a policy, plan or strategy approved by the Council or a Committee of the Council". This is also not included in the draft above for the reason previously explained. It would be ultra-vires under Article 6 for Cabinet to make such decisions – so suggesting it could appear contradictory.

12.7.1 Subject to Article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

### **12.8 Decision-Making by Council Bodies Acting as Tribunals**

12.8.1 The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention of Human Rights.

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## **ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS**

*Text shown in red is amendments made by the Joint Constitution Working Group on 4 March 2015*

### **13.1 Financial Management**

13.1.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **13.2 Contracts**

13.2.1 Every contract made by the Council will comply with the contracts procedure rules set out in Part 4 of this Constitution.

### **13.3 Legal proceedings**

13.3.1 The Service Manager – Legal is authorised by the Scheme of Delegation to Officers set out in Part 3 of this constitution to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he or she considers that such action is necessary to protect the Council's interests.

### **13.4 Authentication of documents**

13.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive Officer or the Service Manager – Legal or in their absence by other persons authorised by the Service Manager - Legal, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.5 Common Seal of the Council**

13.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Head of HR, Legal & Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Council's Monitoring Officer should be sealed. ~~The affixing of the Common Seal will be attested~~ Sealed documents will be signed by any one of the following officers of the Council:

- The Chief Executive Officer
- The Monitoring Officer

- The Deputy Monitoring Officer
- A Director
- A Head of Service
- A Lawyer.

13.5.2 An entry of every sealing of documents will be made and consecutively numbered in a register and be initialled by the person who attested the seal.

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## **ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION**

### **14.1 Duty to Monitor and Evaluate the Constitution**

14.1.1 The Monitoring Officer will monitor and evaluate the operation of this Constitution to ensure that its aims and principles are given full effect.

### **14.3 Changes to the Constitution**

#### **Approval**

14.3.1 Except as provided in 14.3.3 below, changes to this constitution will be approved by the full Council after consideration of the proposal by the Monitoring Officer.

14.3.2 A vote at full Council to change this Constitution should be passed by a simple majority of those present and voting.

14.3.3 The Monitoring Officer, in consultation with the Head of Paid Service and relevant Portfolio Holder, has delegated authority to make minor amendments to the constitution arising from changes to legislation, changes to staffing structures or job descriptions or changes in terminology. Such changes will be reported quarterly to the Overview and Scrutiny Committee. The Monitoring Officer also has authority to amend the constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Cabinet.

14.3.6 If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of executive, the Council must take reasonable steps to consult with local electors and other interested persons in the Borough. If the proposed new form of executive involves an elected mayor, the Council must also hold a referendum.

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## **ARTICLE 15 - SUSPENSION, INTERPRETATION, MAINTENANCE AND PUBLICATION OF THE CONSTITUTION**

*The amendment in red is proposed for consistency with the draft Committee Procedure Rules.*

### **15.1 Suspension of the Constitution**

15.1.1 **Limit to suspension** - The articles of this constitution may not be suspended. Any rules of procedure, except those required by law, may be suspended to the extent permitted within those rules and the law.

15.1.2 **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the total number of Councillors entitled to be present is present. The extent and duration of suspension will be proportionate to the results to be achieved, taking into account the purposes of this Constitution set out in Article 1.

~~15.1.3 No Committee or Sub-Committee or the Cabinet shall have power to suspend any Rules of Procedure, but may resolve to recommend the Council to suspend in special circumstances which shall be stated in the resolution.~~

### **15.2 Interpretation of the Constitution**

15.2.1 The ruling of the [Mayor/Chairman] (or in his/her absence the [Deputy Mayor/Vice Chairman]) on the interpretation of this Constitution in relation to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.3 Maintaining the Constitution**

15.3.1 The Monitoring Officer will ensure that there are periodic operational reviews of this Constitution.

15.3.2 The Monitoring Officer will also ensure that an up-to-date version of this Constitution is maintained and that it is widely available for consultation by Members, staff and the public, as set out in Article 15.4 below.

### **15.4 Publication of the Constitution**

15.4.1 The Monitoring Officer will make available an electronic copy of this Constitution to each councillor upon delivery of that individual's declaration of acceptance of office on the councillor first being elected to the Council.

15.4.2 The Monitoring Officer will ensure that the constitution is published on the council's website in a form that can be downloaded and that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by Members of the local press and public on payment of a reasonable fee.

DRAFT

## COUNCIL PROCEDURE RULES

*[Drafting note: items in italics in square brackets are the Forest Heath/St Edmundsbury variations and the appropriate one will be inserted in each council's constitution. Items highlighted are those on which a view is sought. Items in red are changes proposed by the Joint Constitution Review Group on 4 March].*

### Introduction

1. Ordinary meetings of the Council will usually take place [*five/six*] times a year on a [*Tuesday/Wednesday*], commencing at [*7/6pm*].

*Reference in Forest Heath's constitution to meetings standing adjourned at 9pm has been removed. There was no equivalent in the St Edmundsbury constitution. If a situation arises where the debate on a particular matter appears to be likely to continue for some time, there is provision at 11.11(c) below for that item to be adjourned to a future meeting.*

*Include the following provision (per existing FHDC constitution):*

*Meetings will commence at 6pm and at 9pm shall stand adjourned until the following day at 6pm whenever practicable unless the chairman is of the view that the meeting will conclude within 30 minutes thereafter and exercises his or her discretion to continue the meeting.*

2. Meetings will usually take place at the Council's main offices but may take place at other venues with the agreement of the [*Chairman/Mayor*].

3. There are four types of Council Meetings, the Annual meeting, Ordinary meetings, Extraordinary Meetings and Special meetings. These are dealt with in more detail below.

4. Notice of all meetings of the Council will be given to the public by the **Chief Executive**\* in accordance with the Access to Information Rules five clear working days before the date of the meeting. Notice by summons will also be given by the Chief Executive to each member of the Council in the manner prescribed in the Access to Information Procedure rules. The summons shall contain the date, time and place of each meeting, specify the business to be transacted and be accompanied by such reports that may be available.

*\*At present notice is given by the CEO for Forest Heath meetings. At St Edmundsbury it was the HLDS who signed the summons and pro tem the Acting Solicitor's name appears. It is proposed that CEO should do both.*

5. The Chief Executive is authorised to cancel a meeting where the agenda has already been issued if it considered expedient. Before exercising this authority, the Chief Executive will consult with the

*[Chairman/Mayor]* and the Leader of the Council. Any outstanding business will be held over to the next ordinary meeting or an extraordinary meeting on a date to be arranged.

6. The Council may make audio and/or visual recordings of meetings and broadcast or otherwise make them available to the public on its website or by other means.

**\*A similar provision appears in FH's existing constitution. It is proposed to include this in the new one to permit webcasting or some other means of public access in future.**

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and business**

The Annual Meeting of the Council will be held:

1.1.1 in a year of ordinary elections of councillors to the council, on such day within the twenty-one days immediately following the day of retirement of councillors as the council may fix;

1.1.2 in any other year, on such day in the month of March, April or May as the council may fix;

1.1.3 at such hour as the council may fix.

1.1.4 At the Annual Meeting, the Council will:-

- (a) elect a Member to preside if the retiring *[Mayor and Deputy Mayor/Chairman and Vice Chairman]* are not present;
- (b) elect the *[Mayor/Chairman]* for the ensuing year;
- (c) receive any announcements from the *[Mayor/Chairman]*, including the appointment of the Mayor's Chaplain *[SEBC only]*;
- (d) receive any announcements from the officer advising the *[Mayor/Chairman]* including apologies for absence;
- (e) elect the *[Deputy Mayor/Vice Chairman]*;
- (f) elect the Leader at the post-election annual meeting;
- (g) if practicable, be told by the Leader about the composition and constitution of the Cabinet for the coming year, and the names of Councillors he/she has chosen to be Members of the Cabinet;
- (h) determine the Council's committee structure and arrangements for outside bodies in accordance with 1.2 below;
- (i) appoint the Chairmen and Vice-Chairmen of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee; \*
- (j) update the constitution if necessary in line with 1.2 below;
- (k) consider any other business set out in the notice convening the meeting.

**\*It is a member recommendation for the new constitutions that Chairs and VCs stay in post until the first meeting of the new civic year except where new ones are appointed at the Annual Meeting. The proposal is to align by having just the scrutiny chairs appointed at AM and leaving all others to be done by each committee.**



## 1.2 Selection of councillors on committees and outside bodies

At the Annual Meeting, the Council will:-

- (a) decide which Committees to establish for the municipal year;
- (b) decide the size and agree terms of reference for those Committees;
- (c) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (d) receive, or arrange the delegation of, nominations of Councillors to serve on each Committee and on any outside body for which a new appointment or re-appointment is required; and
- (e) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. ORDINARY MEETINGS OF THE COUNCIL

2.1 Ordinary meetings of the Council will usually take place at [6/7p.m.] but may take place at any other time in accordance with the programme previously approved by the Council. The starting time of an ordinary meeting may be changed before the publication of the agenda by agreement of the Leader and [Chairman/Mayor].

2.2 Unless changed in accordance with paragraph 2.3 below, the order of business at every ordinary meeting of the Council will be:-

*[St Edmundsbury only: Mayor's chaplain to open the meeting with prayers]*

- (a) to elect a person to preside if the [Mayor and Deputy Mayor/Chairman and Vice Chairman] are not present;
- (b) to deal with any business required by law to be dealt with first;
- (c) to confirm as a correct record and sign the minutes of the last meeting of the Council; except that minutes of a special meeting or an extraordinary meeting of the Council will be submitted for confirmation to the next ordinary meeting of the Council;
- (d) the [Mayor's/Chairman's] announcements;
- (e) to receive any announcements from the officer advising the [Mayor/Chairman] (including apologies for absence);
- (f) declarations of interests
- (g) the Leader's report and questions thereon in accordance with rules 8.1 – 8.3 below;
- (h) to receive and answer questions from members of the public in accordance with rule 6 below;
- (i) to receive, and when appropriate debate, any petitions in accordance with the Petition Scheme attached as Appendix A to these rules;
- (j) to deal with any business remaining from the last Council meeting in accordance with rules 5.2 and 11.11(c);
- (k) to deal with the referrals report of recommendations from Cabinet and committees;

- (l) to consider any other business specified in the summons to the meeting, including reports of the Overview and Scrutiny and Performance and Audit Scrutiny Committee;
- (m) to receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- (n) questions to chairmen on the business transacted by their committees since the last ordinary meeting of Council;
- (o) to consider any motions under rule 9 in the order in which they are received;
- (p) to answer any questions received under the terms of rules 8.4 – 8.8

2.3 The order of business (except for items (a), (b) and (c) of paragraph 2.2 of these Rules) may be changed:-

- (a) before or at a meeting, as the Mayor sees fit; or
- (b) by a resolution of the meeting passed on a motion under rule 9 or rule 10.1(c).

### **3. SPECIAL AND EXTRAORDINARY MEETINGS OF THE COUNCIL**

#### **Calling Special or Extraordinary Meetings**

3.1 An extraordinary meeting is one that is additional to the scheduled ordinary meetings and is called to deal with matters that cannot conveniently be dealt with at one of those meetings. A special meeting is one called for a specific and unusual purpose, for example to confer an honorary title.

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:-

- (a) the Council by resolution;
- (b) the *[Mayor/Chairman]*;
- (c) the Monitoring Officer; and
- (d) in accordance with paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), any five Members of the Council if they have signed a requisition presented to the *[Mayor/Chairman]* and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Business**

3.2 Special or extraordinary meetings will:-

- (a) elect a person to preside if the *[Mayor and Deputy Mayor/Chairman and Vice Chairman]* are not present;
- (b) receive any declarations of interest;
- (c) (at extraordinary meetings only) receive and answer questions from members of the public in accordance with rule 6 and limited to the subject matter of the business to be transacted at the meeting; and

(d) deal with the business for which the special or extraordinary meeting was called.

3.3 No other business will be dealt with at a special meeting or an extraordinary meeting of the Council.

#### **4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

4.1 As well as allocating seats on committees, the Council may allocate seats in the same manner for substitute members. In the case of sub-committees, the appointing committees will determine the number of substitutes and appoint them. If a substitute member cannot be found from the list of prescribed substitutes, a temporary substitute may be appointed by the *[Democratic Services Manager]* on receipt of the prescribed form authorised by the relevant group leader. In the case of the full member not being in a group, the full member seeking a substitute will authorise the form. Substitutes cannot be appointed for the Cabinet.

4.2 When the Council (or a Committee) wishes to appoint substitutes to a Committee (or Sub-Committee) it will, as far as possible, adhere to the rules of political proportionality, subject to the total number of substitutes being no more than half of the total number of Members of the Committee (or Sub-Committee).

4.3 The powers and duties of substitutes are set out in the Committee Procedure Rules.

#### **5. QUORUM**

5.1 If, at the start of a meeting or during a meeting of the Council there are not at least *[one quarter of the current number of members/15 members]* present, the *[Chairman/Mayor]* will adjourn the meeting.

5.2 Consideration of any business not dealt with will be adjourned to a date and time fixed by the *[Chairman/Mayor]* or to the next ordinary meeting of the Council if a meeting is not fixed to consider the adjourned business.

#### **6. PUBLIC QUESTION TIME**

##### **General**

6.1 At each ordinary meeting of the Council, members of the public who live or work in the *[District/Borough]* may put questions about the work of the Council to members of the Cabinet or any Committee. 30 minutes will be set aside for this. 30 minutes will also be set aside for questions at extraordinary meetings of the Council, but must be limited to the business to be transacted at that meeting.

6.2 Written questions, detailing the full question to be asked, may be submitted by members of the public to the *[Democratic Services Manager]* no later than 10.00 am on the previous working day to the meeting of the Council.

### **Order of questions**

6.3 Questions will be asked in the order in which notice of them was received, except that the Mayor may group together similar questions.

### **Time limits**

6.4 Each person may ask one question only. A total of five minutes will be allowed for the question to be put and answered. One supplementary question will be allowed provided that it arises directly from the reply and the overall time limit of five minutes is not exceeded. The member to whom the question is directed may refer it to another member or may choose to give a written response. A written response will be provided if the member to whom the question was directed is not present at the meeting and it cannot be answered by another member.

6.5 If no questions are received or all the questions are dealt with in less than 30 minutes, the Council will move immediately to the next business.

### **Scope of Questions**

6.6 The *[Democratic Services Manager]*, in respect of any question notified before the meeting, or the *[Mayor/Chairman]*, in respect of any question notified at the meeting, may reject a question if it:-

- (a) is not about a matter for which the Council has a responsibility or which affects the *[District/Borough]*;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

### **Record of Questions and answers**

6.7 All questions and answers under Public Question Time will be summarised in the minutes of the meeting. The summary for rejected questions will include the reasons for rejection.

### **Written Answers**

6.8 As well as being sent to the person asking the question, written answers will be distributed to all councillors and published on the Council's website.

## 7. RECORDING OF COUNCIL MEETINGS

7.1 The Council usually makes its own recording of Council meetings.

*St Edmundsbury:* The audio-only digital recording is retained **until the minutes of the meeting are approved.** Requests in relation to these recordings can be made under the Freedom of Information Act.

*Forest Heath:* The audio-visual recording is retained for **12 months after the minutes of the meeting are approved.** Requests in relation to these recordings can be made under the Freedom of Information Act. *[NB the existing protocol for recordings is to be revoked].*

***NB the practice for retaining recordings is currently different at each council and views are sought about whether and how they should be aligned.***

*All recordings should be retained for 12 months after the day of the meeting.*

7.2 Arrangements for the public to film/record and for the use of social media at meetings are set out in the Access to Information Rules.

## 8. QUESTIONS BY MEMBERS

### On the Leader's Statement

8.1 At each ordinary meeting of the Council the Leader of the Council will submit a report (the Leader's Statement) summarising important developments and activities since the preceding meeting of the Council.

8.2 The Leader will introduce the statement and members may ask the Leader questions on the content of both his introductory remarks and the written statement itself. All questions will be answered immediately by the Leader or by the relevant Cabinet Member if the Leader refers any question to him or her, unless sufficient information to give an answer is not available. In these circumstances the member asking the question will receive a response in writing within five working days of the Council meeting at which the question was asked. The response will be distributed to all members and published on the Council's website.

8.3 A total of 30 minutes\* will be allowed for questions and responses. There will be a limit of five minutes for each question to be asked and answered. The member asking the original question may put a supplementary question arising from the reply so long as the five minute limit is not exceeded.

***\*Note that this time limit could be extended at any meeting by a motion to suspend this rule – for example if a lot of people came to ask questions on an issue of great concern.***

## Questions on notice at Council

8.4 Subject to paragraph 8.5 below, a member may submit in writing to the *[Democratic Services Manager]* a question on notice for:-

- (a) the *[Chairman/Mayor]*; or
- (b) the Leader or any member of the Cabinet; or
- (c) the Chairman of any Committee or Sub-Committee

on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council, or part of it, or the inhabitants of that area.

***At present FH limit the length of the question to 150 words. There is no such provision in the SE constitution. No limit is proposed, in the interests of flexibility, although this is an option if desired.***

8.5 A Member may ask only one question on notice under 8.4 at each Council meeting and

- a) must submit it in writing to the *[Democratic Services Manager]* no later than noon seven working days before the meeting, not counting the day of the meeting; or
- b) if the question is urgent and the member has the consent of the member to whom the question is to be put, must submit it in writing to the *[Democratic Services Manager]* by 11am on the day of the meeting.

***This proposal means that normally the question will appear in the agenda, but gives flexibility for urgent cases.***

8.6 Every question on notice will be answered without discussion. The member who is asked the question on notice may ask another member to answer. An answer may take the form of:-

- (a) a direct oral answer summarised in the minutes;
- (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 orally at the meeting, a written answer sent by the appropriate officer and/or relevant member to all members within five working days of the Council meeting.

8.7 A member asking a question on notice under paragraph 8.4 may ask one supplementary question, without notice, of a member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.\*

***\*Suggested time limit on which views are sought – ten minutes is consistent with the rules of debate which limits speeches to five minutes i.e. five minutes each for the question and answer***

8.8 If the member who gave notice of the question is not present at the meeting, any other member may ask that question but if that does not occur the [*Chairman/Mayor*] shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with 8.4 above.

## **9. MOTIONS WHICH NEED WRITTEN NOTICE**

9.1 Except for motions which can be moved without notice under section 10 of these Rules, written notice of every motion must be delivered to the **Democratic Services Manager** no later than noon seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the Council has a responsibility or which affect the administrative area of the Council or part of it or the inhabitants of that area.

9.2 Each member may put one motion on notice at each Council meeting.

9.3 All motions on notice received under 9.1 will be set out in the agenda in the order in which they have been received.

9.4 A Member may withdraw a motion on notice at any time.

9.5 A motion on notice under 9.1 can be moved at the meeting by any member. If the motion on notice is not moved, it will be treated as withdrawn and may not be moved without another notice in accordance with 9.1 above.

9.6 Any motion on notice under paragraph 9.1 of these Rules, on being moved and seconded, will usually, without discussion, be referred to the appropriate forum for consideration. The [*Chairman/Mayor*] may, if he/she considers it appropriate, allow the motion to be dealt with at the meeting at which it is moved and seconded provided that the motion, if carried, would not involve the Council in expenditure not included in the Council's approved revenue or capital budget.

## **10. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

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

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to receive the reports or adopt the recommendations of the Cabinet or Committees, or reports and recommendations of officers, and any consequent resolutions;
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to withdraw a motion;

- (h) to extend the time limit for speeches;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) to vote on a motion;
- (l) to vote on an amendment;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to suspend a particular Council procedure rule;
- (p) to exclude or readmit the public and press in accordance with the Access to Information Rules;
- (q) to direct that a Member named under rule 17.3 be not further heard or to exclude them from the meeting under rule 17.4; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

10.2 A motion by the [*Chairman/Mayor*] under paragraph 10.1(p) of these Rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **11. RULES OF DEBATE**

### **11.1 No discussion until motion or amendment seconded**

A motion or amendment will not be discussed or recorded in the minutes unless it has been proposed and seconded.

### **11.2 Motion may need to be in writing**

If the [*Chairman/Mayor*] requires, the motion will be put in writing before it is further discussed.

### **11.3 Secunder's speech**

When seconding a motion or an amendment, a Member may reserve the right to speak at a later point in the debate.

### **11.4 Content and length of speeches**

11.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

11.4.2 No speech will be longer than five minutes,\* except as allowed by the Council following a motion moved and carried under rule 10.1(h), and will be about the matter under discussion.

11.4.3 The five minutes time limit will not apply to a member proposing a motion, or an amendment to a motion, who will be allowed to speak for no longer than ten minutes.\*

***\*These time limits already apply at SEBC and have not been found to hinder the debate. There is provision under rule 10.1(h) for the length of speeches to be extended with the agreement of the meeting.***

### **11.5 When a member may speak again**

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



- (a) to speak once on an amendment moved by another member;
- (b) to move an amendment;
- (c) to move a further amendment (if the motion has been amended since he/she last spoke);
- (d) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (e) in exercise of a right of reply in accordance with paragraph 14.9 of those rules;
- (f) on a point of order in accordance with 11.12 below; and
- (g) by way of personal explanation in accordance with 11.13 below.

#### **11.6 Amendments to motions**

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

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

as long as the effect of (ii) to (iv) is not to cancel the effect of 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 consideration has been dealt with.

(c) If an amendment is lost, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion, as amended, will take the place of the original motion and will become the actual motion upon which any further amendment may be moved.

(e) After an amendment has been carried, the [*Chairman/Mayor*] will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

#### **11.7 Alteration of motion**

A Member may, with the agreement of the [*Chairman/Mayor*], and without discussion:-

- (a) change a motion of which he/she has given notice under rule 9; or
- (b) with the agreement of his/her seconder, change a motion which he/she has moved;
- (c) but only alterations which could be made as an amendment in accordance with paragraph 11.6(a) of these Rules may be made.

### 11.8 **Withdrawal of motion**

- (a) A motion or an amendment may be withdrawn by the mover, but only with the consent of the seconder and the [*Chairman/Mayor*], which will be given without discussion.
- (b) No member may speak on the motion after the mover has asked for consent to withdraw it, unless consent is not given.

### 11.9 **Right to 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 also has the right of reply at the end 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 his or her amendment.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.
- (e) After every reply to which this rule refers, a vote will be taken without further discussion.

### 11.10 **Motions which may be moved during a debate**

11.10.1 When a motion is being discussed, no other motion may be moved except the following (non-closure) motions:-

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) that the subject of debate:-
  - (i) be referred to the appropriate forum for consideration; or
  - (ii) be referred back to the appropriate forum for further consideration.
- (d) to exclude the public and press in accordance with the Access to Information Rules; and
- (e) that a Member be not further heard in accordance with paragraph 17.3.1 of these Rules; and
- (f) by the [*Chairman/Mayor*], in accordance with paragraph 17.4.1 of these Rules, that a named Member leave the meeting.

11.10.2 Any of the motions under paragraph 11.10.1 of these Rules will not take away from the mover of the original motion the right to reply.

### 11.11 **Closure motions which may be moved during a debate**

(a) A Member may move, without comment, any of the following closure motions at the end of a speech of another member:-

- (i) to move to the next business;
- (ii) that the question be put;
- (iii) to adjourn the debate; or
- (iv) to adjourn the meeting.

(b) If a motion "to move the next business" or "that the question be put" is seconded and the [*Chairman/Mayor*] thinks the item has been

sufficiently discussed, he/she will put the closure motion to the vote. If it is passed, the *[Chairman/Mayor]* will give the mover of the original motion a right of reply before putting that original motion to the vote.

(c) If a motion "to adjourn the debate" or "to adjourn the meeting" is seconded and the *[Chairman/Mayor]* thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the closure motion to the vote without giving the mover of the original motion the right of reply.

#### **11.12 Point of order**

11.12.1 A member may ask to make a point of order at any time and will have the right to be heard at once, but will stay silent until asked by the *[Chairman/Mayor]* to speak.

11.12.2 A point of order will only be about a claimed breach of a provision of these Council Procedure Rules or of law; and the member will indicate the paragraph(s) or law and the way in which he/she considers it has been broken.

11.12.3 The ruling of the *[Chairman/Mayor]* on the matter will be final and will not be open to discussion.

#### **11.13 Personal explanation**

11.13.1 A member may ask to give a personal explanation at any time and will have the right to be heard at once, but will stay silent until asked by the *[Chairman/Mayor]* to speak.

11.13.2 A personal explanation will be confined to some material part of an earlier speech by the member which may appear to have been misunderstood in a later stage of the debate.

11.13.3 The ruling of the *[Chairman/Mayor]* on the admissibility of a personal explanation will be final.

### **12. PREVIOUS DECISIONS AND MOTIONS**

#### **12.1 Motion to rescind a previous decision**

A motion to overturn a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least *[seven/ten]* members. Once the motion is dealt with, no member can propose a similar motion for six months.

12.2 The restrictions contained in 15.1 do not apply to:

- a. A recommendation contained in a referral from Cabinet or any Committee to the Council;
- b. A recommendation contained in a report presented individually or collectively by Chief Officers.

#### **12.3 Motion similar to one previously rejected**

A motion or amendment which means the same or largely the same as one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least *[seven/ten]* members. Once the motion or amendment is dealt with, no member can propose a similar motion or amendment for six months.

## **13. VOTING**

### **13.1 Simple majority**

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

### **13.2 [Chairman/Mayor's] casting vote**

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

13.2.2 In the case of the [Chairman/Mayor] refraining from exercising a second vote the motion or amendment being voted on will not be carried.

### **13.3 Show of hands**

Unless a recorded vote is demanded under paragraph 13.4 of the Rules, the [Chairman/Mayor] will take the vote by show of hands,\* or if there is no dissent, by the affirmation of the meeting.

**\*The Forest Heath rules currently permit the use of voting papers for appointments if a motion to that effect is passed. Views are sought on whether this system should apply at either or both councils.**

**The Forest Heath rules on voting papers is below at Appendix 1 for members' information and consideration.**

### **13.4 Recorded vote**

13.4.1 If, before a vote is taken, a member asks that the voting be recorded and the request is supported by [four/five] other members (who will show their support by standing up):-

- (a) the officer advising the [Chairman/Mayor] at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is for or against the motion or is abstaining; and
- (c) each member's response will be recorded in the minutes.

13.4.2 There will also be a recorded vote when required by law.

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

Where any member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that member voted for or against or abstained.

### **13.6 Voting on appointments \***

13.6.1 If there are more than two people nominated for any position to be filled and there is not an overall majority of votes in favour of one person, then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken;

13.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the Chief Executive (or his/her representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round;

13.6.3 Where more than one position is contested (for example, there are to be two Vice-Chairmen of a committee) each position will be voted on separately; and

13.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Chief Executive (or his/her representative) to decide which person is elected.

**\*See the note to 13.3 above. 13.6 will apply only if the voting paper system is not retained, or is retained but not used on any given occasion.**

## **14. MINUTES**

### **14.1 Approval and signing**

(a) The [Chairman/Mayor] will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.

(b) In this regard, the [Chairman/Mayor] will seek a mover and seconder for the motion "that the minutes of the meeting of the Council held on ..... be confirmed and signed as a correct record".

(c) There will be no discussion on the minutes, except by way of a motion upon their accuracy.

### **14.2 No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the Council will not be submitted to an extraordinary or special meeting of the Council for approval but will be submitted to the next ordinary meeting.

## **15. RECORD OF ATTENDANCE**

15.1 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

## **16. EXCLUSION OF PUBLIC**

16.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the Council has decided whether the public should be excluded from the meeting.

16.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or paragraph 18 (Disturbance by Public) of these Rules.

## **17. MEMBERS' CONDUCT**

### **17.1 One member to speak at a time**

(a) When speaking, a member will [sit/stand] at their place and address the [Chairman/Mayor]. If two or more members indicate to speak at the same time, the [Chairman/Mayor] will call on one to speak; and

(b) While a member is speaking, all other members will remain silent unless asking to make a point of order or of personal explanation.

### **17.2 Respect for the chair**

Whenever the [*Chairman/Mayor*] rises during a debate the member then [*standing and*] speaking will stop speaking [*and sit down*] and the Council will be silent.

### **17.3 Member not to be heard further**

17.3.1 If, at a meeting, any member, in the opinion of the [*Chairman/Mayor*], repeatedly ignores the [*Chairman/Mayor's*] ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the Council, the [*Chairman/Mayor*] or any other member may move

“That the member named be not further heard”  
and the motion, if seconded, will be voted on without discussion.

### **17.4 Continuing misconduct of a named member**

17.4.1 If the member named continues to behave improperly after a motion in accordance with paragraph 17.3 is carried, the [*Chairman/Mayor*] will move a motion that either

- (a) the meeting be adjourned for however long the [*Chairman/Mayor*] states; or
- (b) the member named leave the meeting.

If seconded, the motion will be voted on without discussion.

17.4.2 If, after a motion under paragraph 17.4.1 of these rules has been carried, the member named does not leave the meeting, the [*Chairman/Mayor*] may order the removal of the member and may adjourn the meeting without debate or resolution to enable removal to take place.

### **17.5 General disturbance**

In the event of general disturbance among the members which, in the opinion of the [*Chairman/Mayor*], makes it impossible to carry on the meeting, the [*Chairman/Mayor*] may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the [*Chairman/Mayor*] states.

### **17.6 Interpretation of rules - ruling of [*Chairman/Mayor*] not to be challenged**

The decision of the [*Chairman/Mayor*] about the meaning or use of any of these Rules, or about any proceedings of the Council, is final and may not be challenged.

### **17.7 Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this constitution. Any member declaring a disclosable pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

## **18. DISTURBANCE BY PUBLIC**

### **18.1 Removal of member of the public**

If a member of the public interrupts the proceedings of any meeting, the [Chairman/Mayor] will warn the person concerned not to interrupt. If the interruption is repeated, the [Chairman/Mayor] will order the removal of that person from the meeting room. The [Chairman/Mayor] may without debate or resolution adjourn the meeting to allow removal to take place.

### **18.2 Clearance of part of meeting room**

In the case of general disturbance in any part of the meeting room open to the public the [Chairman/Mayor] will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The [Chairman/Mayor] may without debate or resolution adjourn the meeting to allow clearance to take place.

### **18.3 No re-admittance for those removed**

In the case of paragraphs 18.1 and 18.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting.

## **19. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **19.1 Suspension**

All of these Council Rules of Procedure except Rule 13.4 and 14.2 may be suspended by motion on notice (in accordance with paragraph 9.1 of these rules) or without notice under if at least one half of the whole number of members of the Council are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

### **19.2 Amendment**

Any motion to add, 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 with a report and recommendation from the appropriate forum/officer.

## **~~20. "THEMED" DEBATES \*~~**

### **~~20.1 Calling of debate~~**

~~The Leader may call a themed debate on a date and in a form to be agreed with the [Chairman/Mayor].~~

### **~~20.2 Form of debate~~**

~~The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the debate.~~

### **~~20.3 Chairing of debate~~**

~~The debate will be chaired by the [Chairman/Mayor].~~

### **~~20.4 Results of debate~~**

~~The results of the debate will be:-~~

~~(a) disseminated as widely as possible within the community and to agencies and organisations in the area; and  
(b) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.~~

#### ~~20.5 Time allowed for debate~~

~~The [Chairman/Mayor] may limit the time allocated to the debate and the length of individual speeches in consultation with the Leader.~~

***\*The provision for themed debates appears in the current SEBC constitution, which was based on a national model in 2002. Officers are not aware that it has ever been used, but views are sought on whether to retain it as something that may be useful in future.***

## **21. CUSTODY OF SEAL**

21.1 The Common Seal of the Council will be kept by the Head of HR, Legal and Democratic Services.

## **20. ARMS OF THE COUNCIL – USE OR REPRODUCTION**

29.1 Any application to use or reproduce the Arms granted to the Council will be referred to the Head of HR, Legal and Democratic Services, in consultation with the [Chairman/Mayor], and that officer will refuse or grant permission, or refer the application to the Council for a decision.

\*\*\*\*\*



## Appendix 1

*What follows is the current provision in the FHDC constitution for secret ballots when voting on certain appointments. Members' views are sought on whether this should be replaced by a show of hands in all cases, retained at FHDC, or retained at FHDC and introduced at SEBC.*

17.4 In circumstances only, where the Council, Cabinet or a Committee/Sub-Committee/Working Group is:

17.4.1 appointing one or more Members to some other office;

17.4.2 appointing one or more Members to be its representative(s) on a joint board or any other body or organisation; or

17.4.3 appointing an officer;

voting may be by voting paper if a motion to that effect is passed, having been proposed and seconded by any Members (other than the person presiding at the meeting) and voted upon immediately without discussion.

17.5 Where the vote is to be by voting paper the following procedure shall apply:

17.5.1 Plain voting papers shall be distributed to every Member present at the meeting;

17.5.2 Each Member wishing to vote shall write on his voting paper the name of one or more of the candidates in accordance with Rules 17.7.1 to 17.7.2 (as the case may be);

17.5.3 The voting papers shall then be collected from each Member by officers of the Council present at the meeting and delivered to the Chief Executive (or other Officer who is advising the Chairman upon the conduct of the meeting);

17.5.4 The Chief Executive (or other Officer as the case may be) shall then count the voting papers in the presence of the Council and declare the number of votes cast for each candidate.

17.6 Where vote is by voting paper and there are only two candidates, each Member present at the meeting shall vote for one candidate only and the candidate securing the greatest number of votes (including, if necessary, in the case of a Committee meeting, the casting vote of the Chairman of the Committee) shall be declared and appointed to the office.

17.7 Where the vote is by voting paper and there are more than two candidates the following procedure shall apply:

17.7.1 for the first ballot each Member shall be entitled to vote for more than one candidate but to a maximum of one less than the number of candidates offering themselves for election (e.g. if there are five candidates a Member may register or vote for each separate candidate up to a maximum of four; if there are three candidates one vote may be registered for each separate candidate up to a maximum of two and so on); and the candidate receiving the lowest number of votes shall be eliminated;

17.7.2 The process shall be repeated for as many ballots as necessary until there are only two candidates and at that stage, the procedure described in Rule 17.5 shall apply.

*\$adp3svtl*

17.8 All voting papers shall be destroyed by the Chief Executive (or other Officer as the case may be) as soon as practical after the meeting at which they have been used.

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## Committee Procedure Rules

*Drafting note: items in italics in [] are Forest Heath/St Edmundsbury variations and the appropriate words will be inserted in each constitution. Text and notes in **bold highlight** draw attention to changes that were recommended by members or require further member input.*

Text in red is the recommendation of the Joint Constitution Review Group at its meeting on 13 March 2015

### 1. Terms of reference

1.1 The terms of reference of committees will be approved by the Cabinet or Council as appropriate.

1.2 Every committee will be able to propose changes to its own terms of reference for consideration by the Cabinet or Council.\*

***\*New provisions recommended by members.***

Wording approved by the Group.

### 2. Time and place of meetings

2.1 Committee and sub-committee meetings shall take place on the dates and at the times set out in the calendar of meetings approved by Council before the start of each civic year, except that:-

- a) the members of any committee or sub-committee may resolve to hold the meetings at a time that is different from that in the calendar but is the same for every meeting;
- b) the chairman, after appropriate consultation and before the publication of the agenda for any given meeting, may alter the date, time or place of any meeting if in his or her opinion it would assist the efficient conduct of the committee or sub-committee's business;

but in all cases regard will be had to the compatibility of the date, time or place proposed with the right of the public to attend.\*

***\*New provisions in (a) and (b) to give effect to the member recommendation that committees have more freedom over their ways of working including the timings of meetings.***

Wording approved by the Group.

2.2 An extraordinary meeting of a committee or sub-committee may be called by:-

- a) the chairman; or

- b) by any three members of the committee or sub-committee giving written notice to the Chief Executive specifying the business to be transacted.

2.3 A chairman may cancel a committee or sub-committee meeting if he or she considers that there is insufficient business to transact or that it would assist the efficient conduct of the committee or sub-committee's business.

### **3. Publication and distribution of agendas**

3.1 Notice of the time and place of any meeting will be published in accordance with the Access to Information Procedure Rules.

3.2 At least five clear days before a meeting, the agenda will be published electronically and made available to the public and members.

3.3 The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

3.4 The validity of a meeting will not be affected by a member being unable to access the agenda and reports.

3.4 Informal meetings or panels will not be covered by the rules in this section.

### **4. Quorum**

4.1 The quorum of committees, sub-committees, working parties and panels shall not be less than three members, or one third of the total membership, whichever is the greater, and will be as determined by the Monitoring Officer, having regard to that principle.

4.2 No business will be dealt with unless the committee or sub-committee is quorate. Any items of business that cannot be dealt with because the meeting is or becomes inquorate shall stand adjourned for consideration at the next ordinary meeting of the committee or sub-committee unless:-

- a) the chairman and Leader agree a date and time for the meeting to continue; or
- b) an extraordinary meeting is called in accordance with rule 2.2 above; or
- c) the remaining items of business are for information only and do not require a formal decision.

### **5. Attendance register**

5.1 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

## **6. Election of chairmen and vice-chairmen of committees and sub-committees**

6.1 Except in the case of the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee (whose chairmen and vice-chairmen are appointed by the Council), every committee and every sub-committee will, as its first business as a newly appointed committee following each Annual Meeting of the Council, elect a chairman and vice-chairman.

6.2 The members who were chairman and vice-chairman prior to the Annual Meeting will, if still in office and members of the relevant committee or sub-committee, remain in post until the new chairman and vice-chairman are elected.\*

***\*This is a new procedure and is in accordance with the member recommendation.***

Wording approved by the Group.

6.3 The chairman and vice-chairman of every committee and sub-committee will be elected members of the Council.

## **7. Order of business**

7.1 Unless changed in accordance with rule 7.2 below the order of business at committee and sub-committee meetings will be:-

- (a) to elect a chairman or to choose a member to preside if the chairman and vice-chairman are not present;
- (b) to deal with any business required by law to be dealt with first;
- (c) declaration of substitutions;
- (d) apologies for absence;
- (e) to confirm as a correct record and sign available minutes from previous meetings;
- (f) public speaking in accordance with rule 11 below;
- (g) to receive any petitions in accordance with the Council's Petition Scheme;
- (h) to deal with any business remaining from the last meeting in accordance with rules 4.2 and 16.11(c);
- (i) to receive and consider any items arising from panels, working groups or sub-committees appointed by the committee;
- (j) other business as set out on the agenda;
- (k) agenda items requested by members in accordance with rules 13 and 14 below (questions on notice and motions on notice);
- (l) to consider the date and time of the next meeting and any proposals for future agenda items under rule 12 below.\*

***\*Item (l) is in accordance with the member recommendation.***

Wording approved by the Group.

7.2 The order of business except for items (a) – (e) above may be changed:-

- (a) before or at a meeting, as the chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under rule 14 or rule 15.1(c).

## **8. Chairing a meeting**

8.1 Subject to paragraph 8.3, where the Chairman is not present the Vice-Chairman will, if present, chair the meeting.

8.2 If the Chairman and Vice-Chairman(men) are not present at a meeting, the members present will choose one of their number to chair the meeting.

8.3 If, after the start of a meeting:-

- (a) the chairman arrives, or
- (b) a vice-chairman arrives when the chairman is not present, he or she will take the chair of the meeting after any item which is being discussed when he or she arrives has been dealt with.

## **9. Substitutes**

### **Powers and Duties**

9.1 Once a substitute has been declared, he or she will have the ordinary status of a member present in his or her own right and will not be the delegate of the original member. He or she will not be able to exercise any special powers or duties exercisable by the person for whom he or she is substituting. Any disqualification of the original member to speak or vote, however, is not transferred to the substitute. Conversely, if a substitute member is disqualified to speak or vote on a particular item, he or she must declare it as if he or she were an original member.

9.2 If an original member arrives at a meeting at which a substitute has already been declared, the substitute will remain the member entitled to speak and vote. Once a substitution has been declared, the original member will not be entitled to attend the meeting, either as a member of the committee or sub-committee or 'by invitation' (*this is because if a substitution is declared it is on the pre-supposition that the original Member has declared him or herself unable to attend the meeting*).

### **Substitution Rules**

9.3 At the commencement of each meeting of a committee or sub-committee (or upon arrival, if arriving late) each member substituting for another member will declare the said substitution.

9.4 Once a substitute has been declared as present in place of a member for a meeting of that committee or sub-committee, that substitute will take the place of the member and will be able to speak and vote (subject to the declaration of any interests, as is usual practice).

9.5 Once a substitute has declared that he or she is substituting for another member, the original member will not be able to replace the substitute member during the course of the meeting. If the substitute member leaves the meeting during the course of the meeting, the original member will not be allowed to attend and vote in place of the substitute.

9.6 If, at the commencement of the meeting, the original member is present, then a substitution cannot take place.

9.7 Any original member of a committee may seek a substitute from any of those on the appointed list of substitutes for that committee or sub-committee.

9.8 No substitute member has the automatic right to substitute for another member who is not present; it is for the original member to select a substitute.

## **10. Attending and speaking at committee and sub-committee meetings**

10.1 Except as provided in rules 10.2 – 10.5 below, a member of the Council shall not be entitled to speak or vote at a meeting of any committee or sub-committee unless he or she is a member of that committee or sub-committee.

10.2 Where a motion stands referred to a committee or sub-committee the mover and/or the seconder of the motion may attend the meeting which is to consider the motion and take part in any discussion about it, but cannot vote unless a member of the committee or sub-committee.

10.3 A member may be invited by the chairman to attend the meeting specifically to comment on an item of business or because the item of business affects his or her ward.

10.4 A member who is not a member of a committee or sub-committee but who wishes to speak at a meeting of that body will be permitted to do so if he or she has indicated in advance to the chairman that he or she wishes to speak on a particular agenda item.

10.5 The chairman may at his or her discretion allow non-members of the committee or sub-committee to speak in situations not falling within 10.2 – 10.4 above.

## **11. Public speaking**

11.1 Members of the public who live or work in the *[district/borough]* are welcome to speak at any open meeting of a committee or sub-committee. They may ask a question or make a statement on any item on the agenda for that meeting.

11.2 A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online

by sending the request to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning [01284 757120/01638 719363] or in person by telling the committee administrator present at the meeting.

11.3 The Service Manager (Democratic Services) in respect of any question notified before the meeting, or the chairman, in respect of any question notified at the meeting, may reject a question if it:-

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

11.4 There will be an overall time limit of 15 minutes for public speaking, which may be extended at the chairman's discretion. Speakers will be called in the order in which they gave notice. Each person may ask one question or make one statement and will be allowed up to three minutes. If the question can be answered orally at the meeting it will be, and the question and answer will be summarised in the minutes. Questions that cannot be answered immediately will be answered in writing to the questioner, distributed to all members of the committee or sub-committee and published on the council's website. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply which may be answered orally or in writing as above.

## **12. Agenda items requested by members**

12.1 Any member of a committee or sub-committee may propose under rule 7.1(I) above an item to be considered at a future meeting of that committee or sub-committee. The member shall give notice of such items to the chairman and to the Service Manager (Democratic Services) no later than noon seven working days before the date of the meeting (not including the day of the meeting) together with a brief explanation of the item and its purpose, which will then be published on the agenda.

12.2 To be eligible for consideration, the item proposed must fall within the terms of reference or the delegated powers of the committee or sub-committee.

12.3 The member shall present his or her proposal to the committee or sub-committee and may be questioned on it before the committee or sub-committee resolves whether or not to refer the matter to a future meeting for report and consideration in the usual way.\*

*\*This section is new for non-scrutiny committees and responds to the recommendation that at the end of each meeting there should be the opportunity for members to propose future items of business.*

Approved by the Group as drafted.



## Questions on notice

13.1 Subject to paragraph 13.5 below, a member may submit in writing to the Service Manager (Democratic Services) a question on notice for:-

- (a) the Chairman; or
- (b) the Chairman of any sub-committee

on any matter in relation to which the committee or sub-committee has powers or duties.

**At present FH limit the length of the question to 150 words. There is no such provision in the SE constitution. No limit is proposed, in the interests of flexibility, although this is an option if desired.**

The Group approve the above as drafted.

13.2 A Member may ask only one question on notice under 13.1 at each meeting and

- a) must submit it in writing to the Service Manager (Democratic Services) no later than noon seven working days before the meeting, not counting the day of the meeting; or
- b) if the question is urgent and the member has the consent of the member to whom the question is to be put, must submit it in writing to the Service Manager (Democratic Services) by noon on the working day before the meeting.

**This proposal means that normally the question will appear in the agenda, but gives flexibility for urgent cases.**

Approved by the Group as drafted.

13.3 Every question on notice will be answered without discussion. The member who is asked the question on notice may ask another member to answer. An answer may take the form of:-

- (a) a direct oral answer summarised in the minutes;
- (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 orally at the meeting, a written answer sent by the appropriate officer and/or relevant member to all members within five working days of the meeting.

13.4 A member asking a question on notice under paragraph 13.1 may ask one supplementary question, without notice, of a member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.\*

**\*Suggested time limit on which views are sought – ten minutes is consistent with the rules of debate which limits speeches to five minutes i.e. five minutes each for the question and answer**

Ten minutes approved by the Group.

13.5 If the member who gave notice of the question is not present at the meeting, any other member may ask that question but if that does not occur the Chairman shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with 13.1 above.

#### **14. Motions which need written notice**

14.1 Except for motions which can be moved without notice under rule 15, written notice of every motion must be delivered to the Service Manager (Democratic Services) no later than noon seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the committee or sub-committee has a responsibility.

14.2 Each member may put one motion on notice at each meeting.

14.3 All motions on notice received under 14.1 will be set out in the agenda in the order in which they have been received.

14.4 A member may withdraw a motion on notice at any time.

14.5 A motion on notice under 14.1 can be moved at the meeting by any member. If the motion on notice is not moved, it will be treated as withdrawn and may not be moved without another notice in accordance with 14.1 above.

14.6 Any motion on notice under paragraph 14.1 of these rules, on being moved and seconded, will usually, without discussion, be referred to a future meeting for report and consideration. The Chairman may, if he or she considers it appropriate, allow the motion to be dealt with at the meeting at which it is moved and seconded provided that the motion, if carried, would not involve the council in expenditure not included in the council's approved revenue or capital budget.

#### **15. Motions and amendments which may be moved without notice**

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

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to receive the reports or adopt the recommendations of any sub-committees, or reports and recommendations of officers, and any consequent resolutions;
- (e) to refer something to an appropriate body or individual;
- (f) to withdraw a motion;
- (g) to extend the time limit for speeches;
- (h) to suspend any of these rules for the whole or part of the meeting;

- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) to vote on a motion;
- (l) to vote on an amendment;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to exclude or readmit the public and press in accordance with the Access to Information Rules;
- (p) to direct that a member named under rule 20.3 be not further heard or to exclude them from the meeting under rule 20.4.

15.2 A motion by the Chairman under paragraph 15.1(o) of these rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **16. Rules of debate**

### **16.1 No discussion until motion or amendment seconded**

A motion or amendment will not be discussed or recorded in the minutes unless it has been proposed and seconded.

### **16.2 Motion may need to be in writing**

If the Chairman requires, the motion will be put in writing before it is further discussed.

### **16.3 Seconder's speech**

When seconding a motion or an amendment, a member may reserve the right to speak at a later point in the debate.

### **16.4 Content and length of speeches**

16.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

16.4.2 No speech will be longer than five minutes,\* except as allowed by the committee or sub-committee following a motion moved and carried under rule 15.1(g), and will be about the matter under discussion.

16.4.3 The five minutes time limit will not apply to a member proposing a motion, or an amendment to a motion, who will be allowed to speak for no longer than ten minutes.\*

***\*The five minute time limit already applies at both FHDC and SEBC but in the FHDC constitution there is no provision for proposers to speak for longer. There is provision under rule 14.1(g) for the length of speeches to be extended with the agreement of the meeting.***

Wording of 16.4.3 approved by the Group as drafted.

### **16.5 When a member may speak again**

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

- (a) to speak once on an amendment moved by another member;
- (b) to move an amendment;

- (c) to move a further amendment (if the motion has been amended since he/she last spoke);
- (d) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (e) in exercise of a right of reply in accordance with paragraph 16.9 of those rules;
- (f) on a point of order in accordance with 16.12 below; and
- (g) by way of personal explanation in accordance with 16.13 below.

#### **16.6 Amendments to motions**

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

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

as long as the effect of (ii) to (iv) is not to cancel the effect of 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 consideration has been dealt with.

(c) If an amendment is lost, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion, as amended, will take the place of the original motion and will become the actual motion upon which any further amendment may be moved.

(e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

#### **16.7 Alteration of motion**

A Member may, with the agreement of the Chairman, and without discussion:-

- (a) change a motion of which he/she has given notice under rule 13; or
- (b) with the agreement of his/her seconder, change a motion which he/she has moved;
- (c) but only alterations which could be made as an amendment in accordance with paragraph 16.6(a) of these Rules may be made.

#### **16.8 Withdrawal of motion**

(a) A motion or an amendment may be withdrawn by the mover, but only with the consent of the seconder and the Chairman, which will be given without discussion.

(b) No member may speak on the motion after the mover has asked for consent to withdraw it, unless consent is not given.

### **16.9 Right to 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 also has the right of reply at the end 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 his or her amendment.

(d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.

(e) After every reply to which this rule refers, a vote will be taken without further discussion.

### **16.10 Motions which may be moved during a debate**

16.10.1 When a motion is being discussed, no other motion may be moved except the following (non-closure) motions:-

(a) to withdraw a motion;

(b) to amend a motion;

(c) that the subject of debate:-

(i) be referred to the appropriate forum for consideration; or

(ii) be referred back to the appropriate forum for further consideration.

(d) to exclude the public and press in accordance with the Access to Information Rules; and

(e) that a member be not further heard in accordance with rule 20.3.1; and

(f) by the Chairman, in accordance with rule 20.4.1, that a named member leave the meeting.

16.10.2 Any of the motions under paragraph 16.10.1 of these rules will not take away from the mover of the original motion the right to reply.

### **16.11 Closure motions which may be moved during a debate**

(a) A member may move, without comment, any of the following closure motions at the end of a speech of another member:-

(i) to move to the next business;

(ii) that the question be put;

(iii) to adjourn the debate; or

(iv) to adjourn the meeting.

(b) If a motion "to move to the next business" or "that the question be put" is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the closure motion to the vote. If it is passed,

the Chairman will give the mover of the original motion a right of reply before putting that original motion to the vote.

(c) If a motion "to adjourn the debate" or "to adjourn the meeting" is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the closure motion to the vote without giving the mover of the original motion the right of reply.

#### **16.12 Point of order**

16.12.1 A member may ask to make a point of order at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.

16.12.2 A point of order will only be about a claimed breach of a provision of the committee procedure rules or of law; and the member will indicate the paragraph(s) or law and the way in which he/she considers it has been broken.

16.12.3 The ruling of the Chairman on the matter will be final and will not be open to discussion.

#### **16.13 Personal explanation**

16.13.1 A member may ask to give a personal explanation at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.

16.13.2 A personal explanation will be confined to some material part of an earlier speech by the member which may appear to have been misunderstood in a later stage of the debate.

16.13.3 The ruling of the Chairman on the admissibility of a personal explanation will be final.

#### **17. Approval and signing of minutes**

17.1.1 The Chairman will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.

17.1.2 In this regard, the Chairman will seek a mover and seconder for the motion "that the minutes of the meeting of the meeting held on ..... be confirmed and signed as a correct record".

17.1.3 There will be no discussion on the minutes, except by way of a motion upon their accuracy.

#### **17.2 No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the committee or sub-committee may be submitted to an extraordinary or special meeting of that body for approval if convenient and practicable to do so but otherwise will be submitted to the next ordinary meeting.

#### **17.3 Content of minutes**

##### *Recommendations*

17.3.1 Every decision of a committee which is not within its delegated authority will be indicated by the word "RECOMMENDED", and will require Council approval.

## *Decisions*

17.3.2 Every decision of a committee which is within its delegated authority will be indicated by the word "RESOLVED".

17.3.3 The recommendations of a meeting of a sub-committee will be sent to the next convenient meeting of the parent committee.

## **18. VOTING**

### **18.1 Simple majority**

Unless this constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present at the time the question was put.

### **18.2 Chairman's casting vote**

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

18.2.2 In the case of the Chairman refraining from exercising a second vote the motion or amendment being voted on will not be carried.

### **18.3 Show of hands**

Unless a recorded vote is demanded under paragraph 18.4 of the Rules, the Chairman will take the vote by show of hands,\* or if there is no dissent, by the affirmation of the meeting.

**\*The Forest Heath rules currently permit the use of voting papers for appointments if a motion to that effect is passed . See Appendix 1 below. Views are sought on whether this system should apply at either or both councils.**

The Group makes no recommendation and leaves the decision to the meetings on 25 March.

### **18.4 Recorded vote**

18.4.1 If, before a vote is taken, a member asks that the voting be recorded and the request is supported by [four/five] other members (who will show their support by standing up):-

- (a) the officer advising the Chairman at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is for or against the motion or is abstaining; and
- (c) each member's response will be recorded in the minutes.

18.4.2 There will also be a recorded vote when required by law.

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

Where any member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that member voted for or against or abstained.

### **18.6 Voting on appointments \***

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

then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken;

18.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the officer advising the chairman at the meeting will draw lots to determine which of the candidates with fewest votes will proceed to the next round;

18.6.3 Where more than one position is contested (for example, there are to be two vice-chairmen of a committee) each position will be voted on separately; and

18.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the officer advising the Chairman at the meeting to decide which person is elected.

***\*See the note to 18.3 above. 18.6 will apply only if the voting paper system is not retained, or is retained but not used on any given occasion.***

## **19. Exclusion of public**

19.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the meeting has decided whether the public should be excluded from the meeting.

19.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this constitution or rule 21 (Disturbance by Public).

## **20. Members' conduct**

### **20.1 One member to speak at a time**

(a) When speaking, a member will sit at his/her place and address the Chairman. If two or more members indicate to speak at the same time, the Chairman will call on one to speak; and

(b) While a member is speaking, all other members will remain silent unless asking to make a point of order or of personal explanation.

### **20.2 Respect for the chair**

Whenever the Chairman rises during a debate the member then speaking will stop speaking and the meeting will be silent.

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

20.3.1 If, at a meeting, any member, in the opinion of the Chairman, repeatedly ignores the Chairman's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the meeting, the Chairman or any other member may move

"That the member named be not further heard"  
and the motion, if seconded, will be voted on without discussion.

### **20.4 Continuing misconduct of a named member**



20.4.1 If the member named continues to behave improperly after a motion in accordance with paragraph 20.3 is carried, the Chairman will move a motion that either

(a) the meeting be adjourned for however long the Chairman states; or

(b) the member named leave the meeting.

If seconded, the motion will be voted on without discussion.

20.4.2 If, after a motion under paragraph 20.4.1 of these rules has been carried, the member named does not leave the meeting, the Chairman may order the removal of the member and may adjourn the meeting without debate or resolution to enable removal to take place.

### **20.5 General disturbance**

In the event of general disturbance among the members which, in the opinion of the Chairman, makes it impossible to carry on the meeting, the Chairman may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the Chairman states.

### **20.6 Interpretation of rules - ruling of Chairman not to be challenged**

The decision of the Chairman about the meaning or use of any of these rules, or about any proceedings of the committee or sub-committee, is final and may not be challenged.

### **20.7 Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this constitution. Any member declaring a disclosable pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

## **21. Disturbance by public**

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

If a member of the public interrupts the proceedings of any meeting, the Chairman will warn the person concerned not to interrupt. If the interruption is repeated, the Chairman will order the removal of that person from the meeting room. The Chairman may without debate or resolution adjourn the meeting to allow removal to take place.

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

In the case of general disturbance in any part of the meeting room open to the public the Chairman will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chairman may without debate or resolution adjourn the meeting to allow clearance to take place.

### **21.3 No re-admittance for those removed**

In the case of paragraphs 21.1 and 21.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting.

## **22. Suspension and amendment of committee procedure rules**

### **22.1 Suspension**

All of these committee procedure rules except rule 18.4 (recorded vote) may be suspended by motion on notice (in accordance with rule 14.1) or without notice under if at least one half of the whole number of members of the committee or sub-committee are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

### **22.2 Amendment**

Any motion to add to, vary or revoke these rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the committee or sub-committee with a report and recommendation from the appropriate forum/officer.

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## **Appendix 1**

*What follows is the current provision in the FHDC constitution for secret ballots when voting on certain appointments. Members' views are sought on whether this should be replaced by a show of hands in all cases, retained at FHDC, or retained at FHDC and introduced at SEBC.*

21.4 In circumstances only, where a Committee/Sub-Committee/Working Group is:

21.4.1 appointing one or more Members to some other office;

21.4.2 appointing one or more Members to be its representative(s) on a joint board or any other body or organisation; or

21.4.3 appointing an officer;

voting may be by voting paper if a motion to that effect is passed, having been proposed and seconded by any Members (other than the person presiding at the meeting) and voted upon immediately without discussion.

21.5 Where the vote is to be by voting paper the following procedure shall apply:

21.5.1 Plain voting papers shall be distributed to every Member present at the meeting;

21.5.2 Each Member wishing to vote shall write on his/her voting paper the name of one or more of the candidates in accordance with Rules 21.6 or 21.7 (as the case may be);

21.5.3 The voting papers shall then be collected from each Member by officers of the Council present at the meeting and delivered to the Chief Executive (or other Officer who is advising the Chairman upon the conduct of the meeting);

21.5.4 The Chief Executive (or other Officer as the case may be) shall then count the voting papers in the presence of the Committee and declare the number of votes cast for each candidate.

21.6 Where vote is by voting paper and there are only two candidates, each Member present at the meeting shall vote for one candidate only and the candidate securing the greatest number of votes (including, if necessary, in the case of a Committee meeting, the casting vote of the Chairman of the Committee) shall be declared and appointed to the office.

21.7 Where the vote is by voting paper and there are more than two candidates the following procedure shall apply:

21.7.1 for the first ballot each Member shall be entitled to vote for more than one candidate but to a maximum of one less than the number of candidates offering themselves for election (e.g. if there are five candidates a Member may register or vote for each separate candidate up to a maximum of four; if there are three candidates one vote may be registered for each separate candidate up to a maximum of two and so on); and the candidate receiving the lowest number of votes shall be eliminated;

21.7.2 The process shall be repeated for as many ballots as necessary until there are only two candidates and at that stage, the procedure described in Rule 21.6 shall apply.

21.8 All voting papers shall be destroyed by the Chief Executive (or other Officer as the case may be) as soon as practical after the meeting at which they have been used.

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# **CABINET PROCEDURE RULES**

## **1. HOW DOES THE CABINET OPERATE?**

### **1.1 Executive functions**

The Cabinet is the Council's executive body and is responsible for carrying out those functions which by law or under this constitution are designated as "executive functions".

The arrangements for the discharge of executive functions are set out in Article 6. The arrangements may provide for executive functions to be discharged by:-

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

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

(a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an officer or by joint arrangements.

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

### **1.3 Delegation of executive functions**

(a) Subject to (b) below the delegation of executive functions will be as adopted by the Council and set out in Part 3 of this constitution.

(b) The Leader may amend the delegations to individual Cabinet members (Portfolio Holders) relating to executive functions at any time during the year by giving 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, committee or the Cabinet as a whole. The appropriate amendments to the constitution will be made by the Monitoring Officer.

(c) Where the Cabinet seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its chairman.

## **1.5 Cabinet Meetings**

The Cabinet will meet at times to be agreed by the Leader at the Council's main offices or another location to be agreed by the Leader and will be held in public except in accordance with the Access to Information Procedure Rules. Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

## **1.6 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one third of the total number of members of the Cabinet (including the Leader) or 3, whichever is the larger.

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

(a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules.

(b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

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

### **2.1 Who presides?**

The Leader, or in his/her absence any Deputy Leader, will preside at any meeting of the Cabinet or its Committees at which he or she is present. In the absence of the Leader and Deputy Leader the members of the Cabinet who are present shall choose a member to preside.

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

2.1.1 The public may attend in accordance with the Access to Information Rules in Part 4 of this constitution. Members of the public who live or work in the [*district/borough*] may speak or ask a question in accordance with the provisions for public speaking in the Committee Procedure Rules.

2.1.2 Any member of the Council who is not a member of the Cabinet may attend a meeting of the Cabinet. He or she can speak only:

- (a) to ask a question in accordance with rule 2.4.1 below; or
- (b) if invited to by the person presiding.

### **2.3 What business?**

At each meeting of the Cabinet or a Committee of the Cabinet the following business will be conducted:-

- (a) apologies for absence;
- (b) confirm as a correct record and sign the minutes of the last meeting;
- (c) "open forum" in accordance with rule 2.4 below;
- (d) public speaking/questions in accordance with rule 11 of the Committee Procedure Rules;
- (e) the receipt of any petitions (submitted and presented in accordance with the Council's Petition Scheme);
- (f) matters referred to the Cabinet, whether by the Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee, or by the Council for reconsideration in accordance with the provisions of contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
- (g) consideration of reports from the Overview and Scrutiny Committee or the Performance and Audit Scrutiny Committee; and
- (h) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## **2.4 Open Forum\***

2.4.1 At each Cabinet meeting up to fifteen minutes shall be allocated for questions from and discussion with non-Cabinet members. Members wishing to speak during this session may, but do not have to, give notice in advance. Who speaks and for how long will be at the complete discretion of the person presiding.

*This is a new provision recommended by members.*

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

2.5.1 Normally, the Leader will decide upon the schedule for the meetings of the Cabinet.

2.5.2 An item will be placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee, the Performance and Audit Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet. There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Overview and Scrutiny and Performance and Audit Scrutiny Committees.

2.5.3 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon

enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

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## OVERVIEW AND SCRUTINY PROCEDURE RULES

*Drafting note: items in italics in [ ] are the Forest Heath/St Edmundsbury variations and the appropriate one will be inserted in the final version. Items in italic and highlighted are new or amended items which require a decision.*

*Text in red is the recommendation of the Joint Constitution Review Group from its meeting on 13 March 2015.*

### A. OVERVIEW AND SCRUTINY COMMITTEE

#### 1. WHAT WILL BE THE NUMBER OF AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?

1.1 The Council will have one Overview and Scrutiny Committee as set out in Article 7 and will appoint to it annually. The Committee may appoint panels or 'task and finish' groups for fixed periods to consider specific issues.

1.2 The Committee will consist of a maximum of [10/16] Members of the Council. *The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to the Overview and Scrutiny Committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.*

*At present FHDC does not have a politically balanced committee. The highlighted section allows for political balance to be restored or for other arrangements to be made, as the Councils see fit.*

1.3 The terms of reference of the Overview and Scrutiny Committee will be:-

(a) the performance of all overview and scrutiny functions on behalf of the Council (explained in Article 7 of this Constitution) and as set out in section 9F of the Local Government Act 2000;

(b) to receive the draft West Suffolk Annual Report from the Leaders or representative(s) of Cabinet either prior to the commencement of each financial year or at its first meeting after each Annual Council Meeting. Should major developments such as a change of Leader occur following the Annual Meeting in May resulting in a change to the Cabinet's priorities, a revised report may be re-submitted at the Committee's first meeting in the civic year;

(c) to approve a rolling overview and scrutiny work programme, including the programme of any panels or groups it appoints, so as to ensure that the Committee's and panels' or groups' time is effectively and efficiently utilised;

(d) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet, either by way of report or for reconsideration, are managed efficiently;

(e) in the event of the volume of reports to the Cabinet creating difficulty for the management of Cabinet business or jeopardising the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made;

(f) to act as the crime and disorder committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations, and accordingly

(i) to scrutinise the actions undertaken by the Community Safety Partnership and the partners who comprise it, insofar as their activities relate to the Partnership itself; and

(ii) to make reports or recommendations to the Council and partner organisations with respect to the discharge of those functions.

(g) to consider local crime and disorder matters in accordance with the Councillor Call for Action Protocol;

(h) to work collaboratively, as may be appropriate, with the scrutiny function of other local authorities to fulfil the crime and disorder scrutiny function;

(i) to advise on the development of new policy in accordance with its agreed work programme;

(j) to advise, where appropriate, on corporate projects and strategies;

(k) to appoint informal member panels and 'task and finish' groups to assist the work of the Committee; and

(l) to review annually the work and Constitution of such Panels and Working Parties.

1.4 As a general principle for its work programme, wherever the subject matter is common and relevant to both Forest Heath and St Edmundsbury, the Committee will make invitations to and consider invitations from the other authority's Overview and Scrutiny Committee to carry out joint scrutiny reviews for West Suffolk.

## **2. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?**

All Councillors, except members of the Cabinet [and full members of the Performance and Audit Scrutiny Committee,]\* may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he or she has been directly involved.

*\*The words in square brackets apply to SEBC only – as it has fewer councillors, FHDC does not have this limitation.*

### **3. CO-OPTees**

The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees. Panels and working groups of the Committee may appoint non-voting co-optees to assist with specific reviews.

### **4. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

4.1 The Committee shall have meetings programmed approximately every 6 weeks (i.e. normally, there will be up to 8 ordinary meetings of the Overview and Scrutiny Committee in each year).

4.2 Meetings will be conducted in accordance with the Committee Procedure Rules unless there are specific exceptions in these Overview and Scrutiny Procedure rules.

### **5. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?**

5.1 Following discussions between Group Leaders, the Chairman and Vice-Chairman of the Overview and Scrutiny Committee will be appointed by the Council. In the event that there is a majority group within the Council, it will be desirable for:-

- (a) the Overview and Scrutiny Committee to be chaired by a Member who is not a Member of the Majority group; and
- (b) the Vice-Chairman of the Overview and Scrutiny Committee to be a Member of the Majority group.

*5.1 above appears in the SEBC constitution but the FHDC constitution has no equivalent. Views are sought on whether to apply it to both Councils.*

*The Group recommends that the above wording apply to both councils.*

5.2 The Chairman and Vice-Chairman will hold office until:-

- (a) he/she resigns from the office of Chairman or Vice-Chairman; or
- (b) he/she is no longer a Councillor; or
- (c) the next annual meeting of the Council save that the Council may remove the Chairman or Vice-Chairman at an earlier date but only in the event of a change in the political control of the Council.

5.3 Upon the occurrence of a vacancy in the office of Chairman or Vice-Chairman, the Council shall fill the vacancy at the next ordinary meeting of the Council or, if the vacancy occurs as a result of the removal of the Chairman and/or Vice-Chairman in the event of a change in the political

control of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.2 above.

## **6. WORK PROGRAMME**

6.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so it shall take into account the wishes of members of the Committee.

~~6.2 The Committee must also take account of the internal and external audit programmes.~~

## **7. AGENDA ITEMS**

7.1 Any Member of the Council shall be entitled to give notice to the Scrutiny Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda. The request must be by way of the 'suggestion for scrutiny work programme' form, in order to ensure the Committee has all the information it needs to decide whether to take the issue forward.

7.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, the Cabinet, and the Performance and Audit Scrutiny Committee 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 Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at its next meeting.

## **8. POLICY REVIEW, SERVICE DEVELOPMENT AND PERFORMANCE MANAGEMENT**

8.1 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.

8.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within its terms of reference.

8.3 To fulfil its role, the Overview and Scrutiny Committee may hold enquiries and investigate the available options and may appoint advisers and assessors to assist it in this process. The Committee and any panel it appoints may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to form its deliberations. 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.

## **9. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE**

9.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Scrutiny Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

9.2 The Chairman, or in his/her absence, the Vice-Chairman of the Overview and Scrutiny Committee will normally be responsible for presenting the report to the Cabinet or the Council as appropriate. However, in the case of the report of a panel or working group, the report to the Cabinet and/or Council can also be made by the chairman or vice-chairman of the panel/working group.

9.3 If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

9.4 The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting.

## **10. MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

10.1 Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Scrutiny Officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Scrutiny Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet must be given the opportunity to respond to the Overview and Scrutiny report before the Council meets to consider it. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny proposals.

10.2 The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. Any reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda).

10.3 The Overview and Scrutiny Committee will in any event have access to the Cabinet's Decision Plan and timetable for decisions. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **11. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

11.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

11.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **12. MEMBERS AND OFFICERS GIVING ACCOUNT**

12.1 The Overview and 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 any member of the Cabinet, the Head of Paid Service and/or any chief officer to attend before it to explain in relation to matters within its remit:-

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance

and it is the duty of those persons to attend, or send an appropriate substitute, if so required.

12.2 Where any member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of the Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the member or officer in writing, giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

13.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of 10 working days from the date of the original request.

### 13. ATTENDANCE BY OTHERS

13.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 12.1 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance is of course entirely optional.

### 14. CALL-IN

14.1 A key element of the scrutiny role of the new Committee concerns the arrangements for the "call-in" of a decision taken by or on behalf of the Cabinet. A decision by the Cabinet, or a key decision made by an officer with delegated authority from the Cabinet, may be "called in" by members of the Council submitting a request in writing on the call in request form to the Head of HR, Legal and Democratic Services within 5 working days of the publication of that decision. No action can be taken on an item called in for scrutiny.

14.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Cabinet decision was not taken in accordance with the principles set out in Article 12 (Decision Making). In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-

(a) a decision must be called-in by at least five Members of the Council ~~or the Leader of any political group on the Council which has five or more Members provided they have the agreement, by means of a signature, of three other Members of that Group\*~~; and

*\* The highlighted words are in the SEBC constitution. Members are asked if they want to apply them to both councils, or only one, or neither.*

The Group recommends deletion of the highlighted wording.

(b) a decision on the same item may only be "called in" for scrutiny by the Committee on one occasion within a six months period. The six month period to commence from the date the "call-in" request is received by the Head of HR, Legal and Democratic Services;

(c) members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Scrutiny Officer.

14.3 The following arrangements for the call-in of decisions made by the Cabinet will apply:-

(a) when a decision is made by the Cabinet (or by any Members of the Cabinet with a delegated authority contained in Part 3 of this Constitution)

or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published electronically. Normally, such publication will be on the Friday of the week in which the decision was taken. Notification of all such decisions will also be issued to all members within the same timescale by the person responsible for publishing the decision;

(b) the relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in;

(c) during that period, the Scrutiny Officer shall call-in a decision for scrutiny by the committee if so requested by members (in accordance with paragraph 14.1 above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Overview and Scrutiny Committee at its next scheduled meeting. However, in consultation with the Chairman of the Committee, he/she may call an extraordinary meeting of the Committee on such date as he/she may determine (in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution);

(d) any Member considering calling in a Cabinet decision, or a Key Decision taken by an officer under delegated authority, first be required to make every effort to discuss the issue with the relevant Portfolio Holder or Leader of the Council;

(e) Members using the call-in arrangements have the right to address the Committee when it deals with the issue;

(f) normally, the Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Cabinet. However, the Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Cabinet that further work be carried out and that the Overview and Scrutiny Committee makes recommendations at a later date. In these circumstances, the Cabinet will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (i) below);

(g) if the Overview and Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Overview and Scrutiny Committee meeting;

(h) if the Committee makes an alternative recommendation this will be considered by the Cabinet at its next meeting and no action should be taken until a final decision has been made by the Cabinet (or the full Council – see (i) below); and

(i) as set out in the Budget and Policy Framework Procedure Rules, called-in decisions which are deemed to be contrary to the policy framework, or



contrary to or not wholly consistent with the budget, may have to be referred to the full Council for a final decision.

#### **14.4 Call-in and Urgency**

14.4 The call-in procedure set out above 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's 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 Chairman 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 Chairman, the Vice Chairman of the Overview and Scrutiny Committee's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

### **15. COUNCILLOR CALL FOR ACTION**

15.1 Any Councillor may request that the Committee consider the inclusion of a Councillor Call for Action (CCfA) on its work programme, under the terms of the CCfA Protocol set out in ~~Part 5~~ of this Constitution. The operation of CCfA will be in full compliance with the Protocol and, as for call-in, will be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Councillor, and yet a problem still exists.

### **16. THE PARTY WHIP**

16.1 For the purpose of this Section 16, reference to "the party whip" shall mean:-

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

16.2 The imposition of the party whip is regarded by the Council as incompatible with Overview and Scrutiny. The party whip should not therefore be imposed on any member of the Overview and Scrutiny Committee while engaged in the work of Overview and Scrutiny.

## **17. BUSINESS AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

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

- (a) minutes of the last meeting;
- (b) public speaking in accordance with the Committee Procedure Rules;
- (c) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- (d) responses of the Cabinet to reports of the Overview and Scrutiny Committee;
- (e) any recommendations or reports from the Committee's panels or task and finish groups;
- (f) consideration of the Decisions Plan; and
- (g) the business otherwise set out on the agenda for the meeting.

17.2 At every ordinary Overview and Scrutiny Committee meeting at least one member of Cabinet shall attend to give an account of his or her portfolio and answer questions from the committee. Each Cabinet member shall attend at least once a year in rotation. This attendance shall be in addition to any attendance required or invited by the committee in relation to specific items of business. The time set aside for presentation of each portfolio report and questions thereon shall be **at the discretion of the Chairman 15 minutes**.\*

*\*This paragraph is inserted on the recommendation of members but there was no recommendation about the time to be allowed, therefore members' views on this are sought.*

17.3 Where the Overview and Scrutiny Committee conducts investigations, 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:-

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

17.4 Following any investigation or review, the committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public.

## **B. PERFORMANCE AND AUDIT SCRUTINY COMMITTEE**

### **1. WHAT WILL BE THE ARRANGEMENTS FOR THE PERFORMANCE AND AUDIT SCRUTINY COMMITTEE?**

1.1 The Council will have a Performance and Audit Scrutiny Committee as set out in Article 7 and will appoint to it annually.

1.2 The Committee will consist of a maximum of 10 members of the Council. *The Council will normally observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to the Performance and Audit Scrutiny Committee but it may resolve to vary this provision by unanimous vote at the Annual Meeting.*

1.3 The terms of reference of the Performance and Audit Scrutiny Committee will be:

(i) to monitor and scrutinise the performance of the Council's services by having regard to a variety of information, including performance indicators, financial information, reports from external inspections, audit reports and monitoring of action plans;

(ii) to consider means of improving and promoting the performance management and audit functions of the Council;

(iii) within its terms of reference as detailed in 1.3 (i) above, and as an integral part of its role as the Council's Audit Committee, to have reference to any or all of the following areas:

#### **(a) Integration of the Audit role**

To ensure that the principles of effective audit are integrated into the work of the Performance and Audit Scrutiny Committee and the Council generally.

#### **(b) Risk Management**

To provide assurance of the effectiveness of the corporate risk assessment process and monitor the effective development and operation of risk management policies in the Council, specifically including monitoring of the Risk Management Strategy and the Corporate Risk Register.

#### **(c) Internal Audit and Governance**

To provide an effective mechanism to monitor the control environment within the authority, ensuring the highest standards of probity and public accountability by:-

- (1) reviewing and approving of the Annual Audit Plan;
- (2) challenging and follow-up of internal audit recommendations;
- (3) reviewing internal audit performance;
- (4) reviewing of Code of Corporate Governance and Statement of Internal Control; and
- (5) reviewing the anti-fraud and corruption controls and arrangements.

**(d) Financial Statements and Annual Accounts**

To provide scrutiny of the authority's financial performance by scrutinising the:-

- (1) Budget Monitoring Reports;
- (2) Capital Programme Audited Accounts; and
- (3) any proposals for cost reductions or growth in the forward budget.

**(e) Treasury Management**

*[SEBC only: A Treasury Management Sub-Committee will undertake the enhanced monitoring and scrutiny requirements of the revised Chartered Institute of Public Finance and Accountancy and will be responsible to the Committee for:-]*

*[ FHDC: To be responsible for :-]*

- (1) the Council's responses to changes in statutory and regulatory requirements and guidance;
- (2) the annual Treasury Management and Investment Strategy;
- (3) on-going revisions to treasury management strategies and policies;
- (4) the mid year treasury management review;
- (5) reports on treasury management performance; and
- (6) the annual report on treasury management performance, including the effects of the decisions taken and the transactions executed in the past year, and on the circumstances of any non-compliance with the Council's treasury management policy statements.

**(f) External Audit**

To maintain and develop a trusting and professional relationship with the Council's external auditors and ensure any issues arising from inspection are dealt with.

- (1) Annual audit and Inspection Plan and any resulting reports;
- (2) Annual Audit Letter; and
- (3) Statement of Auditing Standard (SAS) 610 Communications.

**(g) Procurement**

Formal reporting of procurement issues;

- (iv) to receive an annual work programme based around a quarterly performance management and risk and budget monitoring cycle; and

(v) to approve the Annual Statement of Accounts each year in good time to meet the statutory deadline for adoption.

1.4 It is not within the terms of reference of this Committee to carry out reviews, or to set up panels, although the Committee may from time to time carry out initial investigation into or scoping of an issue, which may lead to recommendations for further work by the appropriate scrutiny committee or Cabinet.

## **2. WHO MAY SIT ON THE PERFORMANCE AND AUDIT SCRUTINY COMMITTEE?**

All Councillors, except members of the Cabinet [and full Members of the Overview and Scrutiny Committee] may be Members of the Performance and Audit Scrutiny Committee.

*\*The words in brackets apply to FHDC SEBC only.*

## **3. CO-OPTEEES**

The Performance and Audit Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

## **4. MEETINGS OF THE PERFORMANCE AND AUDIT SCRUTINY COMMITTEE**

4.1 There will be up to six ordinary meetings of the Committee each year, comprising four quarterly meetings based around a programme of performance management and risk and budget monitoring, and, as required, a meeting to approve the annual accounts, and a further meeting to scrutinise proposals for cost reductions and growth in the forward budget.

4.2 Meetings shall be held in accordance with the Committee Procedure Rules except where these Overview and Scrutiny Committee Procedure rules specify otherwise.

## **5. WHO CHAIRS PERFORMANCE AND AUDIT SCRUTINY COMMITTEE MEETINGS?**

5.1 Following discussions between Group Leaders, the Chairman and Vice-Chairman of the Performance and Audit Scrutiny Committee will be appointed by the Council. In the event that there is a majority group within the Council, it will be desirable for:-

- (a) the Performance and Audit Scrutiny Committee to be chaired by a Member who is not a Member of the majority group; and
- (b) the Vice-Chairman of the Performance and Audit Scrutiny Committee to be a Member of the majority group.

*This provision appears in the SEBC constitution but there is no equivalent for FHDC. Views are sought as to whether this provision should apply to both councils.*

*The Group recommends that the above should apply to both councils.*

5.2 The Chairman and Vice-Chairman will hold office until:-

- (a) he/she resigns from the office of Chairman or Vice-Chairman; or
- (b) he/she is no longer a Councillor; or
- (c) the next annual meeting of the Council save that the Council may remove the Chairman or Vice-Chairman at an earlier date but only in the event of a change in the political control of the Council.

5.3 Upon the occurrence of a vacancy in the office of Chairman or Vice-Chairman, the Council shall fill the vacancy at the next ordinary meeting of the Council or, if the vacancy occurs as a result of the removal of the Chairman and/or Vice-Chairman in the event of a change in the political control of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 5.2 above.

## **6. WORK PROGRAMME**

6.1 The Committee will receive a rolling work programme based around a quarterly performance management and risk and budget monitoring cycle.

## **7. AGENDA ITEMS**

7.1 Any Member of the Performance and Audit Scrutiny Committee shall be entitled to give notice to the Scrutiny Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Scrutiny Officer will ensure that it is included on the next available agenda. If the item is accepted by the Committee, the extent to which such an item is investigated by the Committee shall be only to the level of initial scoping, in order to ascertain whether further investigation of an issue by the appropriate scrutiny committee should be recommended.

7.2 Any five members of the Council who are not members of the Performance and Audit Scrutiny Committee may also give written notice to the Scrutiny Officer that they wish an item to be included on the agenda of the Committee. If the Scrutiny Officer receives such a notification, then he/she will include the item on the first available agenda of the committee for consideration by the committee. If the item is accepted by the committee, the extent to which such an item is investigated by the committee shall be only to the level of initial scoping, in order to ascertain whether further investigation of an issue by the appropriate scrutiny committee should be recommended.

7.3 The Performance and Audit Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council, the Cabinet and the Overview and Scrutiny Committee to carry out such initial scoping investigations. Where it does so, the Performance and Audit

Scrutiny Committee shall report its findings and any recommendations back to the Overview and Scrutiny Committee, Cabinet and/or Council. The Overview and Scrutiny Committee, Council and/or the Cabinet shall consider the report of the Performance and Audit Scrutiny Committee at its next meeting.

## **8. PERFORMANCE MANAGEMENT AND AUDIT**

8.1 The role of the Performance and Audit Scrutiny Committee in relation to its performance management and audit responsibilities is as set out in Paragraphs 1.3-1.4 above and Article 7 of this Constitution.

## **9. REPORTS FROM THE PERFORMANCE AND AUDIT SCRUTINY COMMITTEE**

9.1 Once it has formed any recommendations, the Performance and Audit Scrutiny Committee will submit them to the Scrutiny Officer for consideration by the Overview and Scrutiny Committee, Cabinet and/or Council as appropriate.

9.2 The Overview and Scrutiny Committee, Council or Cabinet shall consider the recommendations of the Performance and Audit Scrutiny Committee at the next available meeting.

9.3 The agenda for Cabinet meetings shall, when applicable, include an item entitled 'Issues arising from the Performance and Audit Scrutiny Committee'. Any reports of the Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda).

9.4 The Chairman, or in his/her absence, the Vice-Chairman of the Overview and Scrutiny Committee will normally be responsible for presenting the report to the Cabinet or the Council as appropriate. However, in the case of the report of a panel or working group, the report to the Cabinet and/or Council can also be made by the chairman or vice-chairman of the panel/working group.

## **10. ATTENDANCE BY OTHERS**

10.1 members of the Cabinet will be entitled to attend meetings of the Performance and Audit Scrutiny Committee and speak on any matter under consideration.

10.2 Subject to the provisions of paragraph 1.4 above, the Committee may also invite members, officers and any other person to address its meetings, discuss issues of local concern and/or answer questions as part of its initial scoping or investigation of a matter. Attendance is of course entirely optional.

## **11. THE PARTY WHIP**

11.1 For the purpose of this Section 12, reference to "the party whip" shall mean:-

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

11.2 As part of the overview and scrutiny function, the imposition of the party whip is regarded by the Council as incompatible with the Committee's terms of reference. The party whip should not therefore be imposed on any member of the Performance and Audit Scrutiny Committee while engaged in the Committee's work.

### **13. PROCEDURE AT PERFORMANCE AND AUDIT SCRUTINY COMMITTEE MEETINGS**

13.1 The Performance and Audit Scrutiny Committee shall consider the following business:

- (a) minutes of the last meeting;
- (b) public speaking in accordance with the Committee Procedure Rules;
- (c) any decisions or reports of the Cabinet regarding the committee's work;
- (d) any previous recommendations or reports of the committee referred back to the committee by the Overview and Scrutiny Committee, Cabinet or full Council; and
- (e) the business otherwise set out on the agenda for the meeting.

13.2 The committee may also ask people to attend its meetings, which are to be conducted in accordance with the following principles:-

- (a) that all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the Committee by giving evidence or offering opinions be treated with respect and courtesy; and
- (c) that the meeting be conducted so as to maximise the efficiency of the discussion, investigation or analysis.

13.3 Following scrutiny of any matter, the Committee shall prepare, if necessary, recommendations for submission to the Overview and Scrutiny Committee, Cabinet and/or Council as appropriate, and shall make its recommendations and any accompanying findings public.

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# **ACCESS TO INFORMATION PROCEDURE RULES**

*Amendments shown in red were recommended by the Joint Constitution Review Group at its meeting on 13 March 2015*

## **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, Performance and Audit Scrutiny Committee, Standards Committee and Regulatory Committees and public meetings of the Cabinet (together called Meetings).

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

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

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

### **Public**

3.1 Members of the public may attend all meetings ~~subject only to the exceptions in these rules~~ **unless excluded in accordance with rules 11.1 and 11.2(a) below.**

### **Members**

3.2 A member of the Council may attend a meeting of a committee or sub-committee meeting of which he or she is not a member. A member may speak at that meeting if allowed to do so by the Committee Procedure Rules but shall not be entitled to vote.

## **4. NOTICES OF MEETING**

4.1 The Council will give at least five clear days' notice of any meeting by putting details on its website and on lists displayed at its main offices.

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

5.1 The Council will make copies of the agenda and reports open to the public available for inspection by publishing them on its website at least five clear days before the meeting.

5.2 If an item is added to the agenda later, the revised agenda will be available on its website from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Council shall make each such report available to the public on its website as soon as the report is completed and sent to Councillors.

## **6. SUPPLY OF COPIES**

The Council will supply copies of the following documents to any person on request and may make a charge for postage and any other costs:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

~~to any person on request and may make a charge for postage and any other costs~~

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

The Council will as soon as practicable after a meeting make the following available on its website for six years:

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

## **8. RECORDING OF COUNCIL MEETINGS AND USE OF SOCIAL MEDIA**

8.1 People may photograph, film, record and/or broadcast those attending Council, Cabinet, committee or sub-committee meetings (other than any part of such a meeting from which the public are excluded), subject to:

- (a) the committee administrator at the meeting being told so that everyone attending can be notified; and
- (b) no flash or lighting being used, or noise created, without the prior agreement of the chairman; and
- (c) fixed points or areas for cameras or recording equipment being agreed in advance so they do not distract those involved in the democratic process or impinge on the decision-making or block viewing from the public seating area; and
- (d) Members of the public speaking at, or attending, the meeting must not be filmed if they have indicated they do not wish to be included.

8.2 Notice of the photographing, filming, recording and/or broadcasting of meetings is to be displayed in and outside the place of meeting and

included on any literature handed to persons attending a meeting as follows:

“The Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded).

Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming.”

8.3 People may use social media at Council, Cabinet, Committee or Sub-Committee meetings (other than any part of such a meeting from which the public are excluded), subject to:

- (a) equipment used being silent during operation; and
- (b) the use of equipment not distracting those involved in the democratic process or impinging on decision making or blocking the view from the public seating area.

## **9. BACKGROUND PAPERS**

### **9.1 List of Background Papers**

The report’s author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

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

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

### **9.2 Public Inspection of Background Papers**

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

## **10. SUMMARY OF PUBLIC’S RIGHTS**

These rules will constitute the written summary of the public’s rights to attend meetings and to inspect and copy documents and will be available to the public on the Council’s website.

## **11. EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **11.1 Confidential Information – Requirement to Exclude Public**

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

### **11.2 Exempt Information – Discretion to Exclude Public**

(a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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

### **11.3 Meaning of Confidential Information**

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

### **11.4 Meaning of Exempt Information**

Exempt information means information falling within the following 7 categories (subject to any condition):-

- (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.

11.5.1 Information falling within paragraph 11.4.3 above is not exempt information by virtue of that paragraph if it is required to be registered under:-

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;

- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

11.5.2 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.

11.5.3 Information which:-

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 11.5.1 or 11.5.2 above,

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

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

12.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in the Monitoring Officer's opinion relate to items during which, in accordance with Rule 11, 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.

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

13.1 Rules 14-23 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1-13 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12 of this Constitution.

13.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Decisions Plan by which it is to be decided, then it must also comply with Rules 1-12 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief members.

## **14. PROCEDURE BEFORE TAKING KEY DECISIONS OR HOLDING EXECUTIVE MEETINGS IN PRIVATE**

### **14.1 Key Decisions**

14.1.1 Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:-

- (a) a notice (called here a Decisions Plan) has been published in connection with the matter in question, at least 28 clear days before the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14.2 Matters to be considered in private**

14.2.1 At least 28 clear days before a private meeting of the Cabinet, or a committee or joint committee of the Cabinet, the decision-making body must make available and publish on its website a notice including a statement of the reasons for the meeting, or part of the meeting, to be held in private.

14.2.2 At least five clear days before a private meeting, the decision-making body must make available and publish on its website an additional notice of its intention to hold a meeting or part of a meeting in private, including a statement of the reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public, and a statement of its response to any such representations. For ease of reference this notice will be incorporated into the agenda for the meeting in question.

## **15. THE DECISIONS PLAN**

### **15.1 Publication of Decisions Plan**

15.1.1 Decisions Plans will be prepared by the Leader to ensure that 28 clear days' notice of the taking of any key decision, or the holding of any meeting, or part of a meeting, in private, is given. This document will be made available for inspection at the Council's offices and on its website.

### **15.2 Contents of Decisions Plan**

15.2.1 The Decisions Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;

- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter;
  - (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (f) that other documents relevant to those matters may be submitted to the decision maker; and
  - (g) the procedure for requesting details of those documents (if any) as they become available.
- 15.2.2 The Decisions Plan will also detail any matters which it is intended will be considered in private, and the reason for the matter being considered in private.
- 15.2.3 Exempt information need not be included in a Decisions Plan and confidential information cannot be included.

## **16. GENERAL EXCEPTION**

16.1 If a matter which is likely to be a key decision has not been publicised with 28 clear days' notice then subject to Rule 17 (special urgency), the decision may still be taken if:-

- (a) the decision must be taken by such a date that it is impracticable to defer the decision; and
- (b) the proper officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) the proper officer has made copies of that notice available to the public at the Council's offices and on its website; and
- (d) at least five clear days have elapsed following the day on which the proper officer made the notice available.

15.2 Where such a decision is taken collectively, it must be taken in public, unless it relates to exempt information as determined under Section 100 of the Local Government Act 1972, when the public will be excluded.

## **17. SPECIAL URGENCY**

### **17.1 Key Decisions**

17.1.1 If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor\* Vice-Chairman will suffice.

## 17.2 Matters to be considered in private

17.2.1 Where the date by which a meeting must be held makes publication within 28 clear days, and repeated within 5 days, impracticable, the meeting may only be held in private where agreement has been obtained from the Chairman of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chairman, or if the Chairman is unable to act, then the agreement of the ~~Mayor, or in their absence the Deputy Mayor Vice-Chairman~~\* will suffice.

***\*FHDC rules already provide for the VC to be asked in the absence of the Chairman. It is proposed to harmonise them thus because the VC of O&S is a more appropriate person, given the apolitical stance of the Mayor.***

17.3 In the case of both key decisions and matters to be considered in private, as soon as practicable after the decision-maker has obtained such agreement, the decision-maker will make available at the Council's offices, and on its website, a notice setting out the reasons why the decision or matter is urgent and cannot reasonably be deferred.

## 18. REPORT TO COUNCIL

### 18.1 When an Overview and Scrutiny Committee can require a report

18.1.1 If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:-

- (a) treated as being a key decision; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the ~~Mayor/Deputy Mayor~~ Vice-Chairman, under Rule 17;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

18.1.2 The report will include:-

- (a) the decision and the reasons for the decision;
- (b) the decision making body by which, or the individual by whom, the decision was made; and
- (c) the reasons as to why the decision was considered not to be a key decision.

18.1.3 The power to require a report rests with the Overview and Scrutiny Committee but is also delegated to the ~~proper officer~~ **Monitoring Officer**\*, who shall require such a report on behalf of the Committee when so



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

***\*FHDC's constitution already delegates this to the MO.***

## **18.2 Cabinet's Report to Council**

18.2.1 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

18.2.2 The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **18.3 Quarterly Reports on Special Urgency Decisions**

18.3.1 The Leader will submit quarterly reports to the Council on the Executive decisions taken (if any) in the circumstances set out in Rule 17 (special urgency) in the preceding three months.

18.3.2 The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken together with the reasons for the decision and why the matter was considered to be urgent.

## **19. RECORD OF DECISIONS**

19.1 After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or his/her nominee will produce a record of every decision taken at that meeting as soon as practicable.

19.2 The record will include:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

## **20. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

20.1 The Cabinet will meet in public to consider matters which are not key decisions, unless confidential or exempt information is being discussed.

## **21. OFFICERS**

21.1 The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

21.2 A Cabinet meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions and the provisions of rule 19 will apply.

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

### **22.1 Reports Intended to be Taken into Account**

(a) Where a Cabinet member or officer receives a report, which will be taken into consideration when a key decision is made, he or she shall not make that decision until the report has been available for public inspection for at least five clear days.

(b) The member or officer making the decision shall ensure that Democratic Services make the report available for inspection by the public as soon as is reasonably practicable after that officer or member receives it.

(c) The officer who prepares the report shall, in any report to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that the background papers are available on the Council's website.

### **22.2 Provision of reports to Overview and Scrutiny Committees**

22.2.1 Where a report has been submitted to a Cabinet Member or officer with a view to it being considered when a key decision is made, the person who submitted the report shall, as soon as is reasonably practicable, ensure that it is available electronically to the Chairman of the Overview and Scrutiny Committee or, where there is no Chairman, to every member of the Overview and Scrutiny Committee.

### **22.3 Record of Individual Decision**

22.3.1 As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, or after an officer has taken a decision closely associated with the discharge of an executive function, they will prepare, or instruct the proper officer to prepare, a record of the decision which must include:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

- (c) details of any alternative options considered and rejected at the time when the decision was made;
- (d) a record of any conflict of interest declared by any Cabinet Member who is consulted in relation to the decision; and
- (e) in respect of any declared conflict of interest a note of any dispensation granted by the Council's Head of Paid Service.

22.3.2 The provisions of Rules 7 and 9 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

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

### **23.1 Rights to Copies**

Subject to Rule 23.2 below, a Member of an Overview and Scrutiny Committee will be entitled, no later than 10 clear days after the Cabinet receives the request, to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual Member of the Cabinet; or
- (c) any decision that has been made by an officer of the authority which is closely associated with the discharge of an executive function.

### **23.2 Limit on Rights**

A Member of an Overview and Scrutiny Committee will not be entitled to:-

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) any document or part of a document containing the advice of a political adviser or assistant.

23.3 Where the Cabinet determines that a Member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraphs 23.1 or 23.2 it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

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

### **24.1 Material Relating to Previous Business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees, and

contains material relating to any business previously transacted at a private meeting unless it contains:-

- (a) exempt information falling within paragraphs 1, 2, 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), 4, 5 and 7 of the categories of exempt information; or
- (b) the advice of a political adviser.

#### **24.2 Material Relating to Key Decisions**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless paragraph (a) and/or (b) in 24.1 above applies.

#### **24.3 Nature of Rights**

These rights of a Member are additional to any other rights he or she may have.

### **25. CONFIDENTIALITY**

25.1 No member of the Council, nor any co-opted member of any committee, sub-committee, panel or working group, shall without the permission of the Council or (in respect of Cabinet functions) the Cabinet, or (in respect of their functions) of the appropriate committee, sub-committee, panel or working group, disclose any exempt or confidential matter unless and to the extent only that that matter shall have been placed in the public domain by the Council, Cabinet, committee, sub-committee, panel or working group (as the case may be).

\*\*\*\*\*

## **OFFICER EMPLOYMENT PROCEDURE RULES**

*All procedures in this Section shall be subject to the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 or any legislation that amends or replaces them, and all other relevant Regulations.*

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

(a) The Council will require any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or employee of the Council; or of the spouse or partner of such persons.

(b) A candidate who does not disclose such a relationship may be disqualified from consideration, and if appointed, may be liable to dismissal.

(c) Every member and officer of the Council will inform the Head of Service concerned when they become aware of an application by a relative.

(d) No candidate so related to a councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him/her.

#### **1.2 Seeking support for appointment.**

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

### **2. RECRUITMENT OF CHIEF EXECUTIVE AND DIRECTORS**

For the purposes of these rules and of Article 11, the term "chief officers" shall mean the Chief Executive and the Directors.

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

- (a) draw up a statement specifying:-
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed; and
  - (iii) the requirement in 1.1 (a) above;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

### **3. APPOINTMENT OF CHIEF EXECUTIVE**

The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a Joint Committee of the West Suffolk councils specifically appointed for that purpose. That Joint Committee must include at least one Member of each Cabinet.

### **4. APPOINTMENT OF CHIEF OFFICERS**

(a) The Joint Officer Appointments Committee will appoint all Directors.

(b) An offer of employment as a Chief Officer shall only be made where no well-founded objections from any Member of the Cabinet has been received.

### **5. OTHER APPOINTMENTS**

(a) **Officers below Chief Officer level.** Appointment of officers below Chief Officer level is the responsibility of the Chief Executive or his/her nominee, and may not be made by councillors.

(b) **Assistants to political Groups.** Appointment of an assistant to a political Group shall be made in accordance with the wishes of that political Group.

### **6. DISCIPLINARY ACTION**

(a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months unless the Independent Person recommends the suspension should continue beyond that point.

(b) **Independent Person.** No other disciplinary action may be taken in respect of any of those officers listed in paragraph (a) except in accordance with a recommendation in a report made by a designated independent person.

(c) Councillors will not be involved in disciplinary action against any officer below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Such disciplinary action will be undertaken by the Head of Paid Service or an officer nominated by him/her.

(d) The Joint Officer Appointments Committee will approve any disciplinary action against a Chief Officer.

(e) Subject to the provisions of The Local Authorities (Standing Orders) (England) Regulations 2001 all actions will be in accordance with both the JNC Conditions of Service for Chief Executives/Chief Officers and the Council's employment policies.

## **7. DISMISSAL**

(a) Only the full Council can approve the dismissal of the Chief Executive following the recommendation of such action by a Committee of the Council specifically appointed for that purpose. That Committee must include at least one Member of the Cabinet.

(b) The Joint Officer Appointments Committee will approve the dismissal of a Director.

(c) Notice of the dismissal of the Chief Executive or any Director or assistant to a political group must be given in accordance with paragraph 6 of Part II to Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2001.

(d) Councillors will not be involved in the dismissal of any officer below Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Any dismissal procedure will be undertaken by the Head of Paid Service or by an officer nominated by him/her.

(e) Directors have a right of appeal against dismissal to a Joint Chief Officer Appeal Committee specifically appointed for that purpose.

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## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. 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 the budget and policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2. Process for developing the policy framework**

2.1 Normally, in the development of the policy framework, the Cabinet will liaise with the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee to ensure that matters can be given proper consideration as part of the work programmes of these Committees.

2.2 However, the formal process by which the policy framework shall be developed is as follows.

#### **2.3 Prior to Cabinet Consideration**

(a) The Cabinet will publicise, by including in a Decisions Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the policy framework. Where consultation on a draft policy is due to take place, the Decisions Plan will also set out the timetable for Cabinet consideration of the draft for consultation.

#### **Consultation on draft policies**

(b) Where a policy is to be consulted on in draft form, the Overview and Scrutiny Committee and Performance and Audit Scrutiny Committee may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.

#### **2.4 Preparation of final proposals by Cabinet:-**

(a) at the end of any consultation period, the Cabinet will approve its own final proposals for submission to the full Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Overview and Scrutiny Committee or Performance and Audit Scrutiny Committee. Its report to Council will reflect the comments made by consultees and/or the Committees and the Cabinet's response.

(b) The Council will consider the proposals of the Cabinet and may:-

- (i) adopt them;
- (ii) amend them;
- (iii) refer them back to the Cabinet for further consideration; or
- (iv) substitute its own proposals in their place.

In considering the matter, the Council shall have before it the Cabinet's proposals and any report from Overview and Scrutiny or Performance and Audit Scrutiny Committee.

(c)

(i) The Council's decision will be published on the Council's website and drawn to the attention of the Leader.

(ii) The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment); or

(iii) if the Cabinet's proposals are not accepted without amendment, the decision must inform the Leader of any objections which the Council has and require the Cabinet to reconsider, in the light of those objections, the proposals submitted to it.

(v) The Council's decision will become effective on the expiry of 5 clear days after the publication of the notice of decision, unless the Leader objects to it in that period.

(f) If the Leader objects to the decision of the Council, he shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must

*either*

(i) submit a revision of the proposals as amended by the Cabinet (the "revised proposals"), with the Cabinet's reasons for any amendments made to the proposals, to the Council for the Council's consideration; or

(ii) 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.

Where such notification is received, the Chief Executive shall refer the matter to the next ordinary meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Council if the matter is too urgent to await the next ordinary meeting.

(g) At that Council meeting, the decision of the Council shall be reconsidered in the light of the revised proposals or the objections, which shall be available in writing for the Council.

(h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.

(i) In approving the policy framework, the Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Cabinet. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Process for developing the budget framework**

There will be a process for financial planning:

(a) The Cabinet shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:

(i) An early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium term financial situation of the Council.

(ii) An overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government.

(iii) Detailed consideration of items of growth or potential disinvestments.

**(b) Prior to Cabinet Consideration**

(i) The Cabinet will publicise, by including in the forward plan and/or by other methods, 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. The Chairman of the Overview and Scrutiny Committee will be notified. The consultation period shall in each instance be not less than six weeks.

(ii) If the Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its own work programme, it is open to this Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.

(c) Preparation for the formal budget meeting:

a. The Council will hold its formal budget meeting in February or March when the Cabinet will present proposals to Council.

b. The budget proposals presented by the Cabinet having taken consideration of the views of the public, staff, members of the Overview and Scrutiny Committee and other consultees.

c. All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and S151 Officer.

d. At the budget meeting, the Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the Council and its preceptors can be collected.

**4. Decisions outside the budget and policy framework**

(a) Subject to the provisions of Rule 6 the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework.

If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rules 5 and 7 below.

(b) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and the S151 Officer to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget.

If the advice of either of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgent decisions outside the budget and policy framework) shall apply.

## 5. Urgent decisions outside the budget and policy framework

(a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging Cabinet functions may take a decision which is contrary to policy or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. However, the decision may only be taken if:

(i) it is not practical to convene a quorate meeting of the Council;

and

(ii) the chairman of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the Council and the chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

In the absence of the Chairman of the Overview and Scrutiny Committee the **consent of the Vice-Chairman** will be sufficient.

**[SEBC rules refer the decision to the Mayor or Deputy Mayor in the absence of the Chairman of O&S, but given the apolitical role of the Mayor it is considered more appropriate for the VC to act].**

and

(iii) the Council's Financial Procedure Rules are complied with in all other respects.\*

**\*[not in the SEBC rules but appears appropriate]**

(b) Following the decision, the decision maker 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.

## 6. Virement

(a) The Council shall have sufficient budget heads to enable service delivery and effective budgetary control in line with the Council's budget and policy framework.

(b) Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging Executive functions to implement Council policy shall not exceed the budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads – as follows.

(i) the Cabinet

non-recurring expenditure of up to **£25,000** in any one case within budget allocations to functions which are the responsibility of the Cabinet;

(ii) Executive members (Portfolio Holders)

non-recurring expenditure of up to £25,000 in any one case within budget allocations to functions which are the responsibility of the Executive Member; virement will also require the agreement of the Leader.\*\*

*\*[It is proposed that virement levels be increased in line with the Key Decision threshold (£50K) if this is approved] **Change proposed by Finance.***

*\*\*[This appears in FH constitution only at present].*

(iii) authorised officers

(a) provided that it does not constitute a Key Decision, Chief Officers and Heads of Service be authorised to undertake virements of up to £25,000 on behalf of the Cabinet in any one case between the budgets under their control, subject to consultation with the relevant Portfolio Holder(s) and the Leader and the S151 Officer; such virements should be non-recurring and must not include asset rental or fixed percentage maintenance budgets, interest income or recharges which have implications elsewhere in the budget, and must be confirmed in writing to the S151 Officer in a format approved by him/her and reported to Cabinet via budget monitoring reports; and

(b) in the case of budgets allocated to the control of a Committee, Chief Officers and Heads of Service be authorised to undertake virements of up to £5,000 in any one case between the budgets under their control, subject to consultation with the Committee Chairman and the S151 Officer; such virements must not have implications elsewhere in the budget, and must be confirmed in writing to the S151 Officer in a format approved by him/her and reported to the Committee via budget monitoring reports.

Any in year unplanned contributions from reserves exceeding £10,000 will need to be approved by Cabinet; those at the year end are seen by Council as part of approving the Council's financial statements. \*

## **7. In-year changes to budget and policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet an individual member of the Cabinet or officers, or joint arrangements discharging Executive functions must (subject to rule 5) be in line with that framework. No changes to the budget and policy framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) which are necessary to implement a budget decision made by the Council;]

(c) necessary to ensure compliance with the law, ministerial direction or government guidance **where there is no discretion how to act;**

*[words highlighted added to make clear that where there is a choice of how to implement guidance etc then changes will be a matter for council decision]*

(d) in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 8. Call-in of decisions outside the budget and policy framework

(a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to policy, or contrary to or not wholly in accordance with the budget, then it shall seek advice the Monitoring Officer and/or S151 Officer.

(b) The Monitoring Officer's report and/or S151 Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report. The Cabinet must prepare a report to:

(i) the Council if the Monitoring Officer or the S151 Officer conclude that the decision was a departure; and

(ii) the Overview and Scrutiny Committee if the Monitoring Officer or the S151 Officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the S151 Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. **The matter will be referred to the next ordinary meeting of the Council except in cases of urgency when an extraordinary meeting will be called.** At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the S151 Officer. The Council may either:

***[words highlighted added to allow a flexible response to circumstances]***

(i) endorse a decision or proposal of the Cabinet decision maker as falling within the existing budget and policy framework. In this case no further action is required; *or*

(ii) amend the Council's Financial Procedure Rules or policy concerned and agree to the decision with immediate effect; *or*

(iii) where the Council accepts the decision or proposal is contrary to policy or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/S151 Officer.

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