

## **Delegated Decision**

**22 May 2020**

## **Remote Meetings and Procedure Rules**



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### **Report of John Hewitt, Corporate Director of Resources**

#### **Electoral division(s) affected:**

Countywide

#### **Purpose of the Report**

- 1 To present proposals for the revision of the Council Procedure Rules to facilitate remote meetings.

#### **Executive summary**

- 2 In April 2020 the Government suspended the legal requirement for local authorities to hold public meetings in person during the coronavirus pandemic.
- 3 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 was introduced which permitted councils to hold public meetings remotely by using video or telephone conferencing technology.
- 4 In order to facilitate remote meetings it is necessary to update a number of the procedure rules namely: Council Procedure Rules; Executive Procedure Rules; Access to Information Rules; Overview and Scrutiny; Highways Committee Representation Procedure; and the Code of Practice for Members and Officers Dealing with Planning Matters.

## **Recommendation**

- 5 To amend the procedure rules shown at appendices 2 to 7 of this report to enable the Council to hold remote meetings following the implementation of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

## Background

- 6 During the coronavirus pandemic, the Government has temporarily removed the legal requirement for councils to hold public meetings in person.
- 7 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on 4 April 2020. The changes arising from the regulations enable councils to hold remote meetings including by video and telephone conferencing until May 2021.
- 8 In addition to the ability to hold remote meetings the regulations also remove the requirement to hold an annual meeting until May 2021.

## Proposed Changes

- 9 In order to facilitate remote meetings, it is necessary to update a number of the procedure rules namely: Council Procedure Rules; Executive Procedure Rules; Access to Information Rules; Overview and Scrutiny; Highways Committee Representation Procedure; and the Code of Practice for Members and Officers Dealing with Planning Matters.
- 10 The proposed changes are shown in at Appendix 2 through to Appendix 7 of this report and appear in red. The majority of the changes are technical to ensure that the rules cover convening, attending and participating in remote meetings and do not change the procedures themselves. However, to ensure that members of the public are able to participate in meetings, some of the deadlines for indicating that they wish to participate have been amended. This is so that the practical arrangements for their participation can be put in place in good time prior to the meetings.
- 11 The table below summarises the changes to notification requirements. If they are not referred to below, the remain the same for both in person and remote meetings.

<b>Meeting</b>	<b>Current Notification Requirements</b>	<b>Proposed Notification Requirements for Remote Meetings</b>
Council Procedure Rules	<b>Notification of Substitutes</b> notification of substitute members is at least one hour before the start of the relevant meeting.	<b>Where a meeting is held remotely</b> notification of substitution to be provided by <b>12 noon one working day before the start of the relevant meeting.</b>

Executive Procedure Rules	<p><b>Informal public questions</b>  Notice of questions by members of the public, the current provisions at 2.6.3 allow questions to be asked informally at the meeting if the Leader permits.</p>	Provision for informal questions is suspended for remote meetings
Overview and Scrutiny Procedure Rules	<p><b>Members Request to speak (Call in)</b>  At paragraph 17 relating to call in, currently electoral division members must register their request to speak by contacting the Head of Legal and Democratic Services by 12 noon on the day prior to the relevant meeting</p>	Proposed change of wording to working day to be consistent with other references. Change to register the request to speak to <b>12 noon one working day before the meeting.</b>
Highways Committee Representation Procedure	<p><b>Registering to speak</b>  Any person (except for Ward Members) wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon on the last working day before the Committee Meeting.</p>	Proposed change for any person (except Ward Members) to register their intention to speak <b>by noon two working days before the Committee Meeting</b> to allow technical arrangements to be put in place.
Code of Practice for Members and Officers Dealing with Planning Matters	<p><b>Registering to Speak</b>  In relation to representations on planning applications any person (except for Ward Members) wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon on the last working day before the Committee Meeting.</p>	Proposed change for any person (except Ward Members) to register their intention to speak <b>by noon two working days before the Committee Meeting</b> to allow technical arrangements to be put in place.

- 12 In all instances where there was a requirement to provide notification of a meeting and the associated documents at County Hall this has been amended to confirm that these will be available through the Council website.

### **Background papers**

Durham County Council Constitution

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## **Appendix 1: Implications**

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### **Legal Implications**

The proposed changes are necessary to enable the implementation of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Changes to the procedure rules would normally require approval of the Council. However, in the current circumstances it is not practicable to convene a meeting of the Council. The Corporate Director Resources exercises the delegated authority under Part 3, Table 1, Para 12 of the Officer Scheme of Delegation, to amend the rules. The amendments will need to be reported to the next convenient meeting of the Council.

### **Finance**

There are no specific implications within this report.

### **Consultation**

The changes were reported at a meeting of the Constitution Working Group on 22 May 2020.

### **Equality and Diversity / Public Sector Equality Duty**

The updates to the procedure rules promote the public sector equality duty by ensuring access to council business whilst meetings in person are suspended.

### **Climate Change**

There are no specific implications within this report.

### **Human Rights**

There are no specific implications within this report.

### **Crime and Disorder**

There are no specific implications within this report.

### **Staffing**

There are no specific implications within this report.

### **Accommodation**

There are no specific implications within this report.

### **Risk**

There are no specific implications within this report.

### **Procurement**

There are no specific implications within this report.

# **Council Procedure Rules**

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## 1. ANNUAL MEETING OF THE COUNCIL

### 1.1 **Timing and business**

- (a) In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. **This is subject to the exception shown at 1.1(b).**
- (b) **In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020) the requirement to hold an annual meeting will be disregarded in the year of 2020/2021 where no annual meeting will take place prior to 7<sup>th</sup> May 2021 unless where the meeting is:**
  - (i) **called by the Chair of the Council in consultation with the Head of Paid Services and Head of Legal and Democratic Services; or**
  - (ii) **following a resolution calling for an Annual meeting being passed at an ordinary or extraordinary meeting of the Council.**

### 1.2 **Business**

The annual meeting will:

- (a) elect a person to preside if the Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) elect the Vice-Chair of the Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair and / or the Head of Paid Service;
- (f) subject to Article 6.03, elect the Leader in the year of an ordinary election of councillors;
- (g) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Articles 4 and 6 of this Constitution);
- (h) agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Article 4 of this Constitution);



- (i) approve a programme of ordinary meetings of the Council for the year; and
- (j) consider any business set out in the notice convening the meeting.

### 1.3 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive-; and
- (e) appoint the Chairmen and Vice-Chairmen of Committees.

## 2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting **except where 1.1(ii) applies. Where 1.1(ii) applies the programme will be decided by the Chair of the Council in consultation with the Head of Paid Service and Head of Legal and Democratic Services.**

The order of business at ordinary meetings will be set out as below. At the ordinary meeting of council where there is consideration of the annual budget and setting of the council tax (usually held in February) agenda items (f) and (m) will not be included on the agenda, unless in relation to agenda item (m) there are exceptional circumstances and have the approval of the Chair of the Council, and Head of Legal and Democratic Services.

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chair;
- (e) receive a report from the Leader and receive questions and answers on the report;

- (f) receive a brief presentation on the work of an AAP;
- (g) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- (h) receive petitions from the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- (i) receive a report from the Executive and receive questions and answers on the report;
- (j) receive reports from the Council's committees and receive questions and answers on those reports;
- (k) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (l) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Corporate Overview and Scrutiny Management Board;
- (m) consider motions; and
- (n) deal with questions from Members in accordance with Rule 9.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling extraordinary meetings.**

The Head of Legal and Democratic Services may call Council meetings in addition to ordinary meetings and those listed below may request the Head of Legal and Democratic Services to call additional Council meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) any 5 Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or have failed to call a meeting within seven days of the presentation of the requisition.

#### **3.2 Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc. except that the Chair may at their absolute discretion permit

other items of business to be conducted for the efficient discharge of the Council's business.

#### **4. TIME, PLACE AND DURATION OF MEETINGS**

##### **4.1 Time and Place of Meetings**

The time and place of meetings will be determined by the Head of Legal and Democratic Services and notified in the summons.

The place where a remote meeting is held, or to be held could include reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

##### **4.2 Duration of Meetings**

- (a) At an ordinary meeting of the Council, when two and a half hours have elapsed after the commencement of the meeting, the Chair shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote.
- (b) If there are other motions or recommendations on the agenda that remain to be dealt with they will be deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.
- (c) During the process set out in paragraphs (a) and (b) above the only other motions which may be moved are that a matter be withdrawn under Rule 12.8, that a particular Rule be suspended under Rule 21.1 or that a matter be delegated or referred to the Executive, a committee or sub-committee for decision or report under Rule 11.
- (d) When all motions and recommendations have been dealt with, the Chair will declare the meeting closed.

#### **5. NOTICE OF AND SUMMONS TO MEETINGS**

The Head of Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least 5 clear days before a meeting, the Head of Legal and Democratic Services will **issue send** a summons signed by them to every Member of the Council. The summons 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 .

Where meetings take place remotely, notice will be given by the Head of Legal and Democratic Services of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the

Council website. This will be in accordance with the Access to Information Rules.

## **5A REMOTE ATTENDANCE BY MEMBERS OF THE PUBLIC**

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 5A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in 5A(a) above to be re-established;
  - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
  - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.
- (c) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 6. CHAIR OF MEETING

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

## 7. QUORUM

7.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

### 7.2 Members in Remote Attendance

(a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
- (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
- (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 7.2(a) above are not met. In such circumstance the Chair may, as they deem appropriate;

- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 7.2(a) to be re-established;
- (ii) count the number of Members in attendance for the purposes of the quorum; or
- (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

## **8. PETITIONS FROM THE PUBLIC**

### **8.1 Notice of Petition**

If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting.

### **8.2 Presentation of Petitions**

The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.

### **8.3 Number of Petitions**

At any one meeting no person or organisation may present more than one petition.

### **8.4 Scope of Petitions**

The Head of Legal and Democratic Services may reject a petition if it:

- (a) Does not qualify under the scheme;
- (b) It is vexatious, abusive or otherwise inappropriate;
- (c) It is a petition qualifying under another enactment;
- (d) It is excluded by order e.g.:
  - (i) It relates to a planning decision;
  - (ii) It relates to a licensing decision;
  - (iii) It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

## **9. QUESTIONS**

### **BY THE PUBLIC**

9.1 Members of the public may ask questions of Members of the Executive at ordinary meetings of the Council.

### **9.2 Time Allowed for questions**

The time allowed for considering questions under this Rule shall not, without the consent of the Council, exceed 10 minutes.

### 9.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

### 9.4 **Number of questions**

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation.

### 9.5 **Scope of questions**

The Head of Legal and Democratic Services may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is vexatious or abusive;
- (d) is substantially the same or similar to a question which has been put at a meeting of the Council in the past six months;
- (e) requires the disclosure of confidential or exempt information;
- (f) is lengthy, or a speech;
- (g) relates to a matter which is of purely personal concern to an individual or family members;
- (h) relates to court action or threatened court action that the person or group are taking against the Council;
- (i) is a request for compensation;
- (j) contains a statement which is untrue;
- (k) is an unintelligible question;
- (l) relates to a matter on which the Council has, or may, determine a policy;

## **BY MEMBERS**

### **9.6 On reports of the Executive or committees**

Subject to 9.9 and 9.11, a Member of the Council may ask the Leader or the Chair of a committee any question on a report from the Executive or Committee.

### **9.7 Questions on notice at full Council**

Subject to Rule 9.9, a Member of the Council may ask:

- (a) the Chair, a member of the Executive or the chair of any committee or sub-committee, a question on any matter in relation to which the Council has powers or duties or which affects the County, and
- (b) the Chair of the County Durham and Darlington Fire and Rescue Authority, a question on the business of the relevant Authority.

### **9.8 Questions on notice at Committees and Sub-Committees**

Subject to Rule 9.9, a member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

### **9.9 Notice of questions**

A member may ask a question under Rule 9.6, 9.7 or 9.8 if either:

- (a) they have given notice of the question in writing or by electronic mail no later than midday 3 working days before the day of the meeting to the Head of Legal and Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chair or member to whom the question is to be put and the content of the question is given to the Head of Legal and Democratic Services by 9.00 a.m. on the day of the meeting.

### **9.10 One Question per Member**

A Member may ask only one question under Rule 9.6, 9.7 or 9.8 except with the consent of the Chair of the Council, committee or sub-committee.

### **9.11 Supplementary question**

A Member asking a question under Rule 9.6, 9.7 or 9.8 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.



### **9.12 Length of Speeches**

Neither a Member asking a question under Rule 9.7 or 9.8 nor a Member answering such a question may speak for longer than three minutes each unless the Chair consents to a longer period.

### **9.13 Content of Questions**

Questions under Rule 9.6, 9.7 or 9.8 must, in the opinion of the Chair:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact;
- (d) not require the disclosure of confidential or exempt information;
- (e) not relate to a matter which is of purely personal concern to an individual / family members.

### **9.14 Time Allowed for Member Questions at Council Meetings**

- (a) The time allowed for consideration of questions submitted under Rule 9.7 or 9.8 shall not, without the consent of the Council, exceed 30 minutes;
- (b) At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

## **GENERALLY**

### **9.15 Record of questions**

The Head of Legal and Democratic Services will immediately send a copy of any question received to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be available to all Members and the public attending the meeting. Copies of the questions asked at the meeting and the responses will also be available on the Council's website with the agenda for the relevant meeting.

#### **9.16 Order of questions**

- (a) Questions from the public received in accordance with the provisions of Rule 9.3 will be asked in the order notice of them was received, except that the Chair may group together similar questions.
- (b) Questions from Members received in accordance with Rule 9.7 or 9.8 will be asked in the order determined by the Chair of the Council, committee or sub-committee.

#### **9.17 Asking the question at the meeting**

The Chair will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **9.18 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (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, a written answer circulated later to the questioner.

#### **9.19 Written answers**

- (a) Any question from the public which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Copies of the questions and responses will be available on the Council's website with the agenda for the relevant meeting.
- (b) Where a reply can not conveniently be given orally to a question from a Area Action Partnership or Member, a written answer will be circulated later to the questioner.

#### **9.20 Reference of question to the Executive or a committee**

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

## 10. MOTIONS ON NOTICE

### 10.1 Application of Rules

Rules 10.2 to 10.7 do not apply to motions on notice under rule 10.8.

### 10.2 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, must be delivered to the Head of Legal and Democratic Services not later than 5.00 p.m. on the seventh working day before the Council meeting at which it is to be considered.

### 10.3 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

### 10.4 Scope

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

### 10.5 Motion to remove the Leader

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least 2 political groups.
- (b) In order for such a motion to be carried it must have the support of at least two-thirds of those members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

### 10.6 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chair.

### 10.7 Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote,

without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- (a) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- (c) otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

#### **10.8 Motions to Amend Budget and Policy Framework**

Written notice of a motion to move an amendment of the Executive's proposals for the Council's budget and policy framework, subject to the Budget and Policy Framework Procedure Rules, must be delivered to the Head of Legal and Democratic Services not later than midday 3 working days before the Council meeting at which it is to be considered. Motions received after that deadline will only be considered in exceptional circumstances and with the approval of the Chair, section 151 officer and Head of Legal and Democratic Services.

#### **11. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

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

- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council procedure rule;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- (o) to give the consent of the Council where its consent is required by this Constitution.

## **12. RULES OF DEBATE**

### **12.1 No speeches until motion seconded**

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

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

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

### **12.3 Secunder's speech**

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

### **12.4 Questions on Motions**

Once a motion has been moved and seconded, before moving on to speeches, the Chair will ask members if they have any questions on the Motion. A member who asks or answers a question on the motion will retain the right to make a speech on the motion.

## 12.5 Content and length of speeches

- (a) Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- (b) A speech by the mover of a motion may not exceed five minutes without the consent of the Chair, save where two items are being considered together, in which case paragraph (e) will apply.
- (c) Subject to paragraph (d) and (e) below, speeches by other Members, including those members speaking during their right to reply, may not exceed three minutes without the consent of the Chair.
- (d) When the Council's annual budget is under discussion, the Leader of each political group on the Council may speak for up to five minutes or such longer period as the Chair shall allow.
- (e) When two agenda items are being considered together, the proposer and seconder of the motion, and the Leaders of each political group on the Council, will be entitled to speak for double the usual allotted time under (b), (c) and (d) above.

## 12.6 When a Member may speak again

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

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

## 12.7 Amendments to motions

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

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

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **12.8 Alteration of motion**

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

#### **12.9 Withdrawal of motion**

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

#### **12.10 Right of reply**

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

- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on their amendment.

#### 12.11 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

#### 12.12 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will put the



procedural motion to the vote. If it is passed the Chair will give the mover of the original motion a right of reply before putting their motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **12.13 Point of order**

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

### **12.14 Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## **13. PREVIOUS DECISIONS AND MOTIONS**

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

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

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

A motion or amendment in similar terms to 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 ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **14. VOTING**

### **14.1 Majority**

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

#### 14.2 Chair's casting vote

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

#### ~~14.3 Method of Voting~~

~~Unless a recorded vote is demanded under Rule 14.4 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.~~

#### 14.3 Method of Voting

Unless a recorded vote is demanded under Rule 14.4 the Chair will take the vote:

- (a) by a show of hands or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting;
- (b) where an electronic voting system is not working correctly or unavailable the Chair will take the vote by roll call.

#### 14.4 Recorded vote

If ten members present at the meeting of full Council (or 5 members present at any other meetings of the authority to which these rules apply) request it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

#### 14.5 Right to require individual vote to be recorded

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

#### 14.6 Voting at budget decision meeting

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

**NOTE -** Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands,

substitute calculations and calculation of the amount payable by billing authorities.

#### 14.7 **Voting on appointments**

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

### 15. **MINUTES**

#### 15.1 **Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting, **an electronic signature can be applied as a valid signature in accordance with the Electronic Communications Act 2000**. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

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

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

#### 15.3 **Form of minutes**

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

### 16. **RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. **Where the meeting is held remotely the attendance of members will be recorded by the committee services officer and included in the minutes of the meeting.**

## **17. EXCLUSION OF PUBLIC**

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

## **18. MEMBERS' CONDUCT**

### **18.1 Speaking at meetings**

When a member speaks at full Council they must address the meeting through the Chair. If more than one member signifies their intention to speak, the Chair will ask one to speak. Other members must remain silent whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **18.2 Chair speaking**

When the Chair speaks during a debate, any member speaking at the time must stop.

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

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

### **18.4 Member to leave the meeting**

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

### **18.5 General disturbance**

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

## **19. DISTURBANCE BY PUBLIC**

### **19.1 Removal of member of the public**

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

## 19.2 Clearance of part of meeting room

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

## 20. APPOINTMENT OF SUBSTITUTE MEMBERS ON COUNCIL BODIES

- 20.1 The substitution rules will not apply to meetings of the Executive, the Standards Committee or the Audit Committee.
- 20.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.
- 20.3 The Proper Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 20.4 In order to be eligible to sit as substitutes on regulatory or administrative committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.
- 20.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 20.6 Substitute Members may attend meetings in that capacity only:
- (a) to take the place of the ordinary Member for whom they are designated substitute.
  - (b) where the ordinary Member will be absent for the whole of the meeting;
  - (c) where the ordinary Member has notified the Head of Legal and Democratic Services or the Democratic Services Manager of the intended substitution:
    - i. at least one hour before the start of the relevant meeting unless the meeting is held remotely.
    - ii. by 12 noon one working day before the start of the relevant meeting where the meeting is held remotely.
  - (d) provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the County.

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

### **21.1 Suspension**

All of these Council Rules of Procedure except Rule 10.5(c), 14.5 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting. Rule 10.5(c) can only be suspended by motion on notice and the motion must have the support of at least two thirds of those members present and voting.

### **21.2 Amendment**

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

## **22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

- (a) All of the Council Rules of Procedure apply to meetings of full Council.
- (b) None of the rules apply to meetings of the Executive.
- (c) Only Rules 4-7 and 13 – 21 (but not Rule 18.1) apply to meetings of committees and sub-committees.
- (d) Rule 7 does not apply to meetings of the Statutory Licensing Sub-Committees or the Area Licensing Sub-Committees or the Appeals Sub-Committees for which the quorum is as specified in Article 4 of this Constitution.
- (e) Rule 14.4 does not apply to any committee or sub-committee with a membership of less than 5 members.

## **Executive Procedure Rules**

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

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

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

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

Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in Article 6 of this Constitution. This will contain the following information about executive functions in relation to the coming year:

- (i) the extent of any authority delegated to Executive members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- (iii) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements; and
- (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

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

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

- (b) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

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

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when they have served it on its Chair.

#### 1.5 **Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.6 **Executive meetings – when and where?**

The frequency and timing of meetings of the Executive will be determined by the Leader.

The Executive will meet at the Council's main offices or another location to be agreed by the Leader **which includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers, known as remote meetings.**



## 1.7 Public meetings of the Executive?

The Executive will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- (a) confidential information;
- (b) exempt information;
- (c) disorderly conduct.

## 1.8 Private meetings of the Executive

If the Executive is to hold a meeting in private and this means a meeting or part of a meeting during which the public are excluded, then at least 28 clear days before the private meeting it must:

- ~~(a) make available and publish on the Council website at the Council offices a notice of intention to hold the meeting in private; and~~
- ~~(b) publish that notice on the Council's website.~~

The notice must include a statement of reasons for the meeting to be held in private.

Following that, at least 5 clear days before a private meeting, the Council must:

- ~~(a) make available and publish on the website at its offices a further notice of its intention to hold the meeting in private; and~~
- ~~(b) publish that notice on the Council's website.~~

The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representation.

## 1.9 Urgent Private Meeting of the Executive

Where the date by which a private meeting must be held makes compliance with Rule 1.8 impracticable, the meeting may only be held in private where the Executive has agreement from:-

- (a) the Chair of the Corporate Overview and Scrutiny Management Board;
- or
- (b) if they are unable to act, the Chair of the Council; or
- (c) where there is no chair, the vice-chair of the Council

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Executive has obtained agreement to hold an urgent private meeting it must make available **and publish on the Council website at the Council offices** a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred. **and publish that notice on the Council's website.**

#### 1.10 Quorum

- (a) The quorum for a meeting of the Executive shall be 3 including the Leader or Deputy Leader.
- (b) The quorum for a meeting of a committee of the Executive shall be 2.

#### 1.11 How are decisions to be taken by the Executive?

- (a) Executive decisions made by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) Immediately after any vote is taken at a budget decision meeting of the Executive there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.

**NOTE 1 -** *Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.*

## 2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

### 2.1 Who presides?

The Leader will preside at any meeting of the Executive or its committees at which they are present. In their absence, the Deputy Leader will preside.

### 2.2 Who may attend?

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

### **2.3 What business?**

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

- (i) questions from the public;
- (ii) consideration of the minutes of the last meeting;
- (iii) declarations of interest, if any;
- (iv) matters referred to the Executive (whether by the Corporate Overview and Scrutiny Management Board or one of the other Scrutiny Committees or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from the Corporate Overview and Scrutiny Management Board and Scrutiny Committees; and
- (vi) 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 Consultation**

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation undertaken with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

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

- (a) The Leader will decide upon the schedule for meetings of the Executive. The Leader may put any matter on the agenda of any Executive meeting whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.
- (b) Any member of the Executive may require the Head of Legal and Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.

- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.

## **2.6 Questions by the Public**

### **On matters of concern or interest**

- 2.6.1 Members of the public may ask questions of Members of the Executive on matters of concern or interest, during the first formal item of business at every ordinary cabinet meeting.

### **On reports to be considered by the Executive**

- 2.6.2 Members of the public may ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting.

### **Notice of questions**

- 2.6.3 A member of the public may ask a question under rules 2.6.1, and 2.6.2 if that if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner. Under rule 2.6.1 questions can be asked informally at the meeting if the Leader permits, **where the meeting is held remotely this provision is suspended.**

### **Order of questions**

- 2.6.4 Questions in relation to rule 2.6.1 will be asked in the order notice of them was received, and for those relating to rule 2.6.2 at the time that the agenda item was being considered. The Leader may group together similar questions.

## **2.7 Questions by Members**

### **On reports to be considered by the Executive**

- 2.7.1 A member of the Council may wish to ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting. There is no general right for non-Cabinet members to address Cabinet at their meetings, however if the decision to be made affects their division, or they have some other relevant consideration this may be accepted subject to rule 2.7.2

### **Notice of questions**

- 2.7.2 A member wishing to ask a question must give notice by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than 14.00 hrs 2 working days before the day of the meeting, and must indicate their reason for asking the question. The Head of Legal and Democratic Services in consultation with the Leader of the Council will determine whether the question can be asked.

### **Order of questions**

- 2.7.3 Questions will be asked in the order notice of them was received, and at the time that the agenda item was being considered.

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

- 2.7.4 The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, a written reply will be given after the meeting. A restriction of 5 minutes per question will be applied, except at the discretion of the Leader.

## **2.8 Questions**

### **Scope of questions**

- 2.8.1 The Head of Legal and Democratic Services may reject a question from the public if it:

- (a) does not relate to a matter of concern or interest; or

The Head of Legal and Democratic Services may also reject a question from the public or a Member if it:

- (b) Subject to 2.8.1(a) above, is not about a matter for which the Executive is going to consider an item on the agenda for the meeting;
- (c) is defamatory, frivolous or offensive;
- (d) is vexatious or abusive;
- (e) is substantially the same or similar to a question which has been put at a meeting of the Executive in the past six months;
- (f) requires the disclosure of confidential or exempt information;
- (g) is lengthy, or a speech;
- (h) relates to a matter which is of purely personal concern to an individual or family members;

- (i) relates to court action or threatened court action that the person or group are taking against the Council;
- (j) is a request for compensation;
- (k) contains a statement which is untrue;
- (l) is an unintelligible question.

### **Record of questions**

2.8.2 The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

The questions asked at the meeting and the responses will be referred to in the minutes of the meeting.

### **Written answers**

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

### **Reference of question to the Executive**

2.8.4 Unless the Leader decides otherwise, no discussion will take place on any question.

## Access to Information Procedure Rules

### 1. Scope and Access to Information

1.1 These rules apply to all meetings of the Council, the Executive, the Corporate Overview and Scrutiny Management Board and Scrutiny Committees, the Standards Committee and Regulatory Committees (together called meetings).

1.2 For all purposes of the Constitution including procedure rules, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

(a) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and

(b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

### 2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council’s duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act ~~2018~~1998.

### 3. Rights to attend meetings and report on meetings

3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules. Members of the public are also entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

3.2 Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

3.3 Anyone present at a meeting as it takes place, is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

3.4 Members of the public are to remain seated throughout the meeting ~~and to follow the meeting etiquette as standing up and walking around could to prevent a distraction~~ from the business in hand. ~~Due to health and safety reasons the council is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.~~

3.5 For meetings held in County Council Buildings, members of the public are welcome to use the Council's Wi-Fi facilities. Where meetings take place in venues not run by the County Council members of the public are advised to check with the venue whether Wi-Fi is available. ~~Due to health and safety reasons the Council is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.~~

#### 4. **Notices of meeting**

The Council will give at least five clear days' notice of any meeting by publishing ~~posting~~ details of the meeting ~~at on the Council website. County Hall, Durham [the designated office].~~

#### 5. **Access to Agenda and Reports before the meeting**

5.1 The Members of the Corporate Overview and Scrutiny Management Board and Scrutiny Committees shall be provided with full copies of the agenda and reports presented to Cabinet including those containing exempt and/or confidential information.

5.2 ~~The Council will make copies of the agenda and reports open to the public available for inspection on the Council website at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.~~

#### 6. **Supply of copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Legal and Democratic Services thinks fit, copies of any other documents supplied to Councillors in connection with an item



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

## 7. **Access to Minutes etc. after the meeting**

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

- (a) the minutes of the meeting [or records of decisions taken, together with reasons, for all meetings of the Executive] 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. **Background Papers**

### **List of background papers**

8.1 The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in their 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).

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

8.2 The Council will make available for public inspection **via the website** for four years after the date of the meeting a link to the ~~one copy of each of the~~ documents on the list of background papers.

## 9. **Summary of Public's Rights**

**TheA** written summary of the public's rights to attend meetings and to inspect and copy documents **are contained in the Constitution. The Constitution is held at ~~kept at and made available to the public at~~ County Hall, Durham and available on the Council website.**

## 10. Exclusion of Access by the Public to Meetings

### Confidential information – requirement to exclude public

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

### Exempt information – discretion to exclude public

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

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

### Meaning of confidential information

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

### Meaning of exempt information

- 10.4 Exempt information means information falling within the following categories (subject to any qualification)

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

Category	Qualification	Interpretation
1. Information relating to any individual	The exemption applies only if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (see note on public interest below).	

Category	Qualification	Interpretation
2. Information which is likely to reveal the identity of an individual.	The Public Interest Test Qualification applies, as in 1 above.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The Public Interest Test Qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(e) the Building Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or</li> <li>(f) the Charities Act 1993.</li> </ul>	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.
4. Information relating to any consultations or negotiations, or	The Public Interest Test Qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the

Category	Qualification	Interpretation
<p>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.</p>		<p>case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"labour relations matter" means—</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>"employee" means a person employed under a contract of service;  "office-holder", in relation to the authority, means the holder of any paid office appointments to which</p>

Category	Qualification	Interpretation
		are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	The Public Interest Test Qualification applies, as in 1 above.	
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.	The Public Interest Test Qualification applies, as in 1 above.	Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	The Public Interest Test Qualification applies, as in 1 above.	
<b>Exempt Information relating to the Standards Committee ONLY</b>		
7A. Information which is the subject to any obligation of confidentiality	The Public Interest Test Qualification applies, as in 1 above.	
7B. Information which relates in any way to	The Public Interest Test Qualification applies, as in 1 above.	

Category	Qualification	Interpretation
matters concerning national security.		

**NOTE 2 -** *The Public Interest Test*

*The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –*

*The Authority must release the information unless “in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”.*

*The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.*

*There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.*

- There is a distinction between the public interest and what merely interests the public.*
- Does it further the understanding of and participation in the public debate of issues of the day?*
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?*
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?*
- Does it bring to light information affecting public health and public safety?*

**11. Exclusion of Access by the Public to Reports**

If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## 12. **Application of Rules to the Executive**

- 12.1 Rules 13-20 apply to the Executive and its Committees (if any). If the Executive or its Committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 12.03 of this Constitution.
- 12.2 If the Executive 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 Notice of Key Decisions by which it is to be decided, then it must also comply with Rules 1–11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in Article 12.03 of this Constitution. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

## 13. **Procedure before taking Key Decisions**

- 13.1 Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:
- 13.2 Where a decision maker (the decision making body by which, or the individual by whom an executive decision is made) intends to make a key decision, that decision must not be made until a document has been published at least 28 clear days before the making of the decision at the Council offices **or and** on its website stating:-
- (a) that a key decision is to be made on behalf of the relevant local authority;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision, the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and

- (h) the procedure for requesting details of those documents (if any) as they become available.

13.3 Where in relation to any matter the public may be excluded from the meeting at which the matter is to be discussed or documents relating to the decision need not be disclosed to the public, the document referred to must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

#### 14. **General Exception**

14.1 Where the publication of the intention to make a key decision is impracticable, that decision may only be made:-

- (a) where the proper officer has informed the chair of the Corporate Overview and Scrutiny Management Board or, if there is no such person, each member of the Corporate Overview and Scrutiny Management Board by notice in writing, of the matter about which the decision is to be made;
- (b) where the proper officer has made available at the Council offices for inspection by the public and published on the Council's website, a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

14.2 As soon as reasonably practicable after the proper officer has complied with 14.1(a)-(c) above they must make available at the council offices **or publish on the Council website** a notice setting out the reasons why compliance with paragraph 13 is impracticable. ~~and publish that notice on the Council's website.~~

#### 15. **Special Urgency**

15.1 Where the date by which a key decision must be made, makes compliance with Rule 14 (General Exception), the decision may only be made where the decision maker has obtained agreement from:-

- (a) the chair of the Corporate Overview and Scrutiny Management Board; or
- (b) if the chair of the Corporate Overview and Scrutiny Management Board is unable to act, the chair of the Council; or



- (c) where there is no chair of either the Corporate Overview and Scrutiny Management Board or of the Council, the Vice-Chair of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

- 15.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 15.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at the Council offices **or publish on the Council website** a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred;

## 16. Report to Council

### **When the Corporate Overview and Scrutiny Management Board can require a report**

- 16.1 If the Corporate Overview and Scrutiny Management Board thinks that a key decision has been taken which was not:
  - (a) published in accordance with Rule 13
  - (b) the subject of the general exception procedure; or
  - (c) the subject of the special urgency procedure.

the Board may require the Executive to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the Board, but is also delegated to the Head of Legal and Democratic Services, who shall require such a report on behalf of the Board when so requested by the Chair of the Corporate Overview and Scrutiny Management Board. Alternatively the requirement may be raised by resolution passed at a meeting of the Corporate Overview and Scrutiny Management Board.

### **Executive's report to Council**

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

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

- 16.3 In any event the Leader of the Council will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

## **17. Record of Decisions**

After any meeting of the Executive or any of its Committees held in public the Head of Legal and Democratic Services or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date it was made, a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body which made the decision and in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

## **18. Key Decisions by Individual Members of the Executive**

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

- 18.1 Where an individual Member of the Executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least 5 clear days after receipt of that report.

### **Provision of copies of reports to Corporate Overview and Scrutiny Management Board**

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

### **Record of individual decision**

- 18.3 As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive, they will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information.

## 19. **Corporate Overview and Scrutiny Management Board and Scrutiny Committees - Access to Documents**

- 19.1 Members of the Corporate Overview and Scrutiny Management Board and the Scrutiny Committees are entitled to a copy of any documents which are in the possession or under the control of the executive of that authority; and contains material relating to:
- (i) any business that has been transacted at a **meeting** of a decision making body of that authority
  - (ii) any decision that has been made by an **individual member** of that executive in accordance with the executive arrangements
  - (iii) any decision that has been made by **an officer** of the authority in accordance with executive arrangements.
- 19.2. Where a member of an Overview and Scrutiny Committee requests a document following the definition above, the executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the executive receives the request.
- 19.3 The entitlement does not extend to a copy of any document or part of a document that contains exempt or confidential information unless that information is relevant to an action or decision that the member is reviewing or scrutinising or any review contained in any programme of work.
- 19.4 If the executive determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of the document or part of any such document, it must provide the Overview and Scrutiny Committee with a written statement stating the reasons for that decision.

## 20. **Additional Rights of Access to Documents for Members**

- 20.1 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 Executive or its Committees which contains material relating to any business to be transacted at a public meeting. Any document must be available for inspection at least 5 clear days before the meeting except:-
- (a) where the meeting is convened at shorter notice the document must be available for inspection when the meeting is convened; and
  - (b) where an item is added to the agenda at shorter notice, a document that would be required to be available must be available for inspection when the item is added on the agenda.

20.2 Any document which is in the possession or under control of the Executive and contains material relating to any business transacted at a private meeting, will be available for members to read through committee services, subject to 20.4 below.

20.3 Any document which is in the possession or under control of the Executive and contains material relating to:

- (a) any business transacted at a private meeting.
- (b) any decision made by an individual member in accordance with executive arrangements;
- (c) any decision made by an officer in accordance with executive arrangements

must be available for inspection by a member within 24 hours from when the meeting concludes or where an executive decision is made by an officer, from after the decision has been made

- 20.4 (a) The entitlement to access documents does not extend to a document:
- i) that contains exempt information unless the exemption solely relates to the financial or business affairs of any particular person: or,
  - ii) the exemption solely relates to information that reveals that the authority proposes to give under any enactment, or notice under or by virtue of which requirements are imposed on a person, or to make an order or direction under any enactment.
- (b) Nothing in rule 20.4 (a) permits the disclosure of exempt information relating to any terms proposed by or to the authority in the course of negotiations of contract.
- (c) Nothing in these rules requires the disclosure of confidential information that breaches the obligation of confidence.
- (d) Nothing in these rules requires the disclosure of a document, or part of a document where advice had been provided by a political adviser or assistant.

20.5 Where access is restricted to a document identified in 20.2, the restriction is determined by the Leader and Cabinet on advice of the Head of Legal and Democratic Services, where an explanation would be provided to members on the restriction to access to the document, and attendance at meeting.

**NOTE 3** *How 20.2, 20.4 and 20.5 work in the Council: members in normal circumstances will be able to access the report and attend meetings, however there may be occasions such as:-*

- *highly sensitive and complex negotiations*
- *significant litigation risk*
- *sensitive personal information where the data subject would reasonably expect such information to be restricted only to decision makers*

*where access would be restricted, the restriction would be determined by the Leader and Cabinet on the advice of the Head of Legal and Democratic Services, in which case an explanation will be provided to members for the restriction to access.*

## **20.6 Nature of rights**

These rights of a Member are additional to any other right they may have.

## **Overview and Scrutiny Procedure Rules**

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

The Council will have a Corporate Overview and Scrutiny Management Board and the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. The Board and such Committees may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such Groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

### **2. Who may sit on Overview and Scrutiny Committees?**

All Councillors except Members of the Executive, the Executive Support Members and the Chair of the County Council shall be eligible for appointment as Members of the Corporate Overview and Scrutiny Management Board or a Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

### **3. Co-optees**

Each thematic Scrutiny Committee shall be entitled to appoint a maximum of two people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members shall be in accordance with the Protocol agreed by the Corporate Overview and Scrutiny Management Board.

### **4. Education representatives**

The Children and Young People's Overview and Scrutiny Committee in dealing with education matters shall include in its membership the following voting representatives:

- (a) 2 Church of England diocese representative;
- (b) 2 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

The Children and Young Peoples Overview and Scrutiny Committee is considered to be the Scrutiny Committee of the Local Education Authority, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Children and Young Peoples Scrutiny Committee deals with other matters,

these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

In the event of any Educational related matter being subject to Call-in, the 7 voting faith and parent governor representatives shall be invited to attend the Corporate Overview and Scrutiny Management Board that considers that Call-in.

**5. Meetings of the Corporate Overview and Scrutiny Management Board and Scrutiny Committees**

- (a) There shall be at least 6 ordinary meetings of the Corporate Overview and Scrutiny Management Board in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Corporate Overview and Scrutiny Management Board meeting may be called by the Chair of the Corporate Overview and Scrutiny Management Board or by the Head of Legal and Democratic Services if they consider it necessary or appropriate.
- (b) There shall be at least four meetings of each Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee may be called by the Chair of the relevant Committee or by the Head of Legal and Democratic Services if they consider it necessary or appropriate.
- (c) The Corporate Overview and Scrutiny Management Board and the Scrutiny Committees may set up ad hoc groups including non-voting co-opted members to carry out specific projects and report their findings to the appointing Board or Committee.
- (d) The Chair and Vice-Chair of the Corporate Overview and Scrutiny Management Board acting together shall be authorised to take urgent action in relation to the allocation of projects to a Scrutiny Committee or an ad hoc group following consultation with the appropriate Chair of a Scrutiny Committee.

**6. Adults, Well-Being and Health Scrutiny Committee**

The Adults Well-Being and Health Scrutiny Committee shall have powers to deal with routine matters within its jurisdiction subject to reporting for information to the Corporate Overview and Scrutiny Management Board. The Committee shall have the enhanced review and scrutiny powers in line with provisions in Health and Social Care Act 2012, including power of referral to the Secretary of State for Health. In the event of a proposed referral to the Secretary of State for Health, a report shall be submitted to the County Council for information, prior to submission.

7. **Quorum**

The quorum for a Corporate Overview and Scrutiny Management Board or a Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

8. **Who Chairs Overview and Scrutiny Committee meetings?**

- (a) There shall be a Chair and a Vice-Chair of the Corporate Overview and Scrutiny Management Board and each Scrutiny Committee.
- (b) In the absence of a Chair the Vice-Chair can exercise the powers of the Chair.
- (c) The Chair and the Vice-Chair of the Corporate Overview and Scrutiny Management Board shall be entitled to attend each Scrutiny Committee as an ex-officio member.

9. **Work programme**

Each Scrutiny Committee will, following consultation with the Chair and Vice-Chair of the Corporate Overview and Scrutiny Management Board, set its own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

10. **Agenda items**

- (a) Any Member of the Corporate Overview and Scrutiny Management Board or a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Head of Legal and Democratic Services that they wish an item relevant to the functions of the Board, Committee or Sub-Committee to be included on the agenda for the next available meeting of the Board, Committee or Sub-Committee. Seven working days notice of the item should be given to the Head of Legal and Democratic Services together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

On receipt of such a request, so long as it is an appropriate matter to be considered, the Head of Legal and Democratic Services will ensure that it is included on the next available agenda.

- (b) Any Member of the Authority shall be entitled to give notice to the Head of Legal and Democratic Services that they wish an item relevant to the functions of the Board, Committee or Sub-Committee to be included on the agenda for the next available meeting of the Board, Committee or Sub-Committee, providing that it is not an excluded matter. Seven



working days' notice of the item should be given to the Head of Legal and Democratic Services together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

On receipt of such a request, so long as it is an appropriate matter to be considered, the Head of Legal and Democratic Services will ensure that it is included on the next available agenda.

- (c) The Corporate Overview and Scrutiny Management Board and the Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Executive to review particular areas of Council activity. Where they do so, the Corporate Overview and Scrutiny Management Board shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Corporate Overview and Scrutiny Management Board or Scrutiny Committee within one month of receiving it.

## 11. **Policy review and development**

- (a) The role of the Corporate Overview and Scrutiny Management Board 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Corporate Overview and Scrutiny Management Board may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The Corporate Overview and Scrutiny Management Board and the Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

12. **Reports from the Corporate Overview and Scrutiny Management Board and Scrutiny Committees**

- (a) All formal reports from Scrutiny Committees will be reported to the Corporate Overview and Scrutiny Management Board before submission to the Executive or the Council except in special circumstances with the agreement of the Chair and Vice-Chair of the Corporate Overview and Scrutiny Management Board.
- (b) Once it has formed recommendations on proposals for development, the Corporate Overview and Scrutiny Management Board will prepare a formal report and submit it to the Head of Legal and Democratic Services for consideration by the Executive (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).
- (c) If the Corporate Overview and Scrutiny Management Board cannot agree on one single final report to the Council or Executive as appropriate, one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- (d) The Council or Executive shall consider the report of the Corporate Overview and Scrutiny Management Board within one month of it being submitted to the Head of Legal and Democratic Services.

13. **Making sure that Overview and Scrutiny reports are considered by the Executive**

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. The reports of the Corporate Overview and Scrutiny Management Board referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Executive within two months, the Executive will give an explanation of the reasons to the Chair of the Corporate Overview and Scrutiny Management Board as soon as practicable.
- (b) The Corporate Overview and Scrutiny Management Board and the Scrutiny Committees will have access to the Executive's Notice of Key Decisions and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Corporate Overview and Scrutiny Management Board following a consideration of possible policy/service developments, the Board will be able to respond in the course of the Executive's consultation process in relation to any key decision.

- (c) Where the Executive has delegated decision-making power to another individual member of the Executive the Corporate Overview and Scrutiny Management Board will submit a copy of their report to them for consideration. At the time of doing so the Corporate Overview and Scrutiny Management Board shall serve a copy on the Head of Legal and Democratic Services. The Member with delegated decision-making power must consider the report and respond in writing to the Corporate Overview and Scrutiny Management Board within four weeks of receiving it. A copy of their written response to it shall be sent to the Head of Legal and Democratic Services and the Leader. The Member will also attend a future meeting of the Corporate Overview and Scrutiny Management Board to present their response.

**14. Rights of the Corporate Overview and Scrutiny Management Board and Scrutiny Committee Members to documents**

- (a) In addition to their rights as Councillors, Members of the Corporate Overview and Scrutiny Management Board and the Scrutiny Committees 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Management Board and the Scrutiny Committees as appropriate depending on the particular matter under consideration. Indeed, the aim will be to develop a positive and constructive relationship between the Executive and the Overview and Scrutiny function.

**15. Members and Officers giving account**

- (a) The Corporate Overview and Scrutiny Management Board and any 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 Executive, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance

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

- (b) For this purpose, senior officer includes any chief officer, deputy chief officer, third tier officer and other appropriate senior officer. Where there are concerns about the appropriateness of the officer who should attend, the relevant chief officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- (c) Where any member or officer is required to attend the Corporate Overview and Scrutiny Management Board or a Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the member or officer, if necessary in writing, giving at least 7 working days' notice of the meeting at which they are required to attend (unless agreed otherwise). Any notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Board or Committee.

Where the account to be given to the Corporate Overview and Scrutiny Management Board or Scrutiny 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.

- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Corporate Overview and Scrutiny Management Board or Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

## 16. **Attendance by others**

The Corporate Overview and Scrutiny Management Board or a Scrutiny Committee may invite people other than those people referred to in paragraph 15 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.

## 17. **Call-in**

- (a) The Corporate Overview and Scrutiny Management Board has the power to call in decisions made by the Executive (which term shall also include a Joint Committee) but not yet implemented. The purpose is to consider whether to recommend that a decision be reviewed by the Executive. This is a power which should only be used in exceptional circumstances and cannot be used in respect of day-to-day management and operational decisions.

- (b) When a decision is made by the Executive, an individual member of the Executive with delegated powers or under joint arrangements, notice of the decision shall be published, ~~including where possible by electronic means, and shall be available at the main offices of the Council on the Council website~~ normally within 2 working days of being made. All Overview and Scrutiny Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called in under the provisions set out below.
- (d) Within that period:
- (i) the Chair or, in their absence the Vice-Chair of the Corporate Overview and Scrutiny Management Board; or
  - (ii) any five members of the Corporate Overview and Scrutiny Management Board or the Scrutiny Committee within whose remit the decision falls

may sign a notice requesting that the decision is called in and submit the notice to the Head of Legal and Democratic Services. The notice should give reasons for the request for call-in, having regard to the principles of decision making set out in Article 12 of this Constitution.

- (e) On receipt of the notice the Head of Legal and Democratic Services will, as soon as possible, seek the views of the Chair or in their absence, the Vice-Chair of the Corporate Overview and Scrutiny Management Board, or in the absence of both, a Chair or Vice-Chair of another Scrutiny Committee.
- (f) The Chair or Vice-Chair to whom the request is referred will consider whether the request is reasonable. They will take account of whether a case has been made out for calling in the decision and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to the advice of the Monitoring Officer and Chief Finance Officer, on this point.
- (g) If it is considered that the request for call-in is reasonable, the Head of Legal and Democratic Services will convene a meeting of the Corporate Overview and Scrutiny Management Board within 7 working days, after consulting the Chair of the Board about the date. The Board will then proceed as in sub-paragraph (i) below.
- (h) If the Chair or Vice-Chair to whom the request is referred consider that the request is unreasonable the decision will not be called in. The Head of Legal and Democratic Services will submit a report to the next

available meeting of the Corporate Overview and Scrutiny Management Board giving details of the request and Chair's/Vice-Chair's reasons for refusing it.

- (i) Where the Corporate Overview and Scrutiny Management Board considers a call-in request, the format of the meeting will be as follows:-
- after the Chair opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
  - on matters of particular relevance to a particular electoral division, electoral division members who are not signatories to a call-in have the opportunity to make comments on the call-in at the meeting, such speeches not to exceed five minutes each. Electoral division members will take no further part in the discussion or vote. Electoral division members must register their request to speak by contacting the Head of Legal and Democratic Services by **12 noon one working day on the day** prior to the relevant hearing;
  - the relevant portfolio holder (or holders if more than one is relevant) will then be invited to make any comments;
  - the relevant Corporate Director or their representative will advise the Board on the background and context of the decision and its importance to achieving Service priorities;
  - Board members will ask questions of members and officers in attendance;
  - the portfolio holder(s) will be invited to make any final comments on the matter.

The Board, after considering the evidence presented to the meeting, will make one of the following decisions:

- to take no further action, in which case the decision will take effect immediately;
- to refer the decision back to the decision-maker for reconsideration, setting out the nature of the Board's concerns; the decision-maker must then re-consider the matter with a further 10 working days, taking into account the concerns of the Corporate Overview and Scrutiny Management Board, before making a final decisions;
- to refer the matter to full Council, in which case paragraph (k) below will apply; or
- to refer the matter to a sub group of the Board for further consideration and report back to the Board within a specified period

not exceeding 14 days, in which case the Board will, at its reconvened meeting take one of the decisions set out above; if the Board does not reconvene within 14 days or does reconvene but does not refer the matter back to the decision maker or to the full Council, the decision will take effect on the date of the reconvened Board meeting or the expiry of that further 14 day period, whichever is the earlier.

- (j) If, following a request for call-in, the Corporate Overview and Scrutiny Management Board does not meet in the period set out above, or does meet but does not refer the matter back to the decision maker or to full Council, the decision will take effect on the date of the relevant Board meeting, or the expiry of that further 7 working day period, whichever is the earlier.
- (k) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with the Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
- (l) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## 18. **Exceptions**

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) that the Corporate Overview and Scrutiny Management Board may only call-in a maximum of 3 decisions per three month period;
- (b) that call-in can be invoked in respect of a decision only once;
- (c) that call in will not apply to individual decisions made by the Audit Committee, the County Planning Committee or Area Planning Committees, the Highways Committee, the Statutory Licensing Committee, the General Licensing and Registration Committee, the

Appeals and Complaints Committee, the Chief Officers' Appointments Committee, the Standards Committee or the Human Resources Committee, or any Sub-Committee of those Committees.

**19. Call-in and Urgency**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council in consultation with the Chair of the Corporate Overview and Scrutiny Management Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair of the Council, the Vice-Chair's consent shall be required (again in consultation with the Chair of the Corporate Overview and Scrutiny Management Board). In the absence of both the Chair and Vice-Chair of the Council, the Chief Executive or their 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.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

**20. Reports to the Local Authority where the key decision procedure is not followed**

20.1 Where an executive decision has been made and:-

- (a) was not treated as being a key decision; and
- (b) a relevant overview and scrutiny committee are of the opinion that the decision should have been treated as a key decision,

that overview and scrutiny committee may require the executive which is responsible for the decision to submit a report to the relevant local authority within such reasonable period as the committee may specify.

20.2 A report under paragraph 22.1 must include details of:-

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and



- (c) if the executive of the relevant local authority are of the opinion that the decision was not a key decision, the reasons for that opinion.

## 21. **Independence**

The purpose of Overview and Scrutiny is to hold decision-makers to account. Members of the Corporate Overview and Scrutiny Management Board or a Scrutiny Committee should, therefore, approach any Scrutiny process in an open manner irrespective of political allegiance.

## 22. **Procedure at Overview and Scrutiny Committee meetings**

- (a) The Corporate Overview and Scrutiny Management Board and Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Board or Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the Overview and Scrutiny Board;
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Corporate Overview and Scrutiny Management Board or a Scrutiny Committee conduct investigations (e.g. with a view to policy development), the Board or Committees may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all Members of the Board or Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy;
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Board or Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

**23. Councillor Call for Action**

- (a) The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.
- (b) Any Member may request that an item is placed on the agenda of the Corporate Overview and Scrutiny Management Board for consideration. The Member making that request does not have to be a member of the Overview and Scrutiny Management Board or any Scrutiny Committee.
- (c) The Call for Action should be an option of “last resort”. In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Corporate Overview and Scrutiny Management Board agenda if the Chair, in consultation with the Monitoring Officer, is satisfied that:
  - (i) the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
  - (ii) the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and
  - (iii) the issue of concern has a demonstrable impact on a part or the whole of the Member’s electoral division

and accordingly information to support the above matters should accompany the Call for Action request.

- (d) A Call for Action cannot, in any event, relate to:
  - (i) a planning decision;
  - (ii) a licensing decision;
  - (iii) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Corporate Overview and Scrutiny Management Board.
  - (v) any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.

- (e) If the Chair rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.
- (f) A valid Call for Action will be considered at the next ordinary meeting of the Corporate Overview and Scrutiny Management Board or at a special meeting of the Board within 14 days of validation whichever is the sooner. The Board may either decide to consider the matter itself or refer it to the appropriate Scrutiny Committee.
- (g) The subject matter of the Call for Action will be the subject of a report from the relevant Corporate Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Corporate Overview and Scrutiny Management Board or Scrutiny Committee meeting to provide that information, make representations and answer questions.
- (h) The Call for Action will be considered by the Corporate Overview and Scrutiny Management Board or Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.
- (i) The Member who referred the matter under sub-paragraph (b) above may address the Corporate Overview and Scrutiny Management Board or Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
- (j) The Corporate Overview and Scrutiny Management Board or Scrutiny Committee may also consider representations from any residents of the electoral division affected by the Call for Action, subject to the discretion of the Chair.
- (k) If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Portfolio Member shall also attend the Corporate Overview and Scrutiny Management Board or Scrutiny Committee to answer questions and make any representations.

#### **24. Reports and Recommendations on Calls for Action**

- (a) Where the Corporate Overview and Scrutiny Management Board or Scrutiny Committee makes a report or recommendations to the Council or the Executive as a result of a reference under paragraph 22 above, the Corporate Overview and Scrutiny Management Board or Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 (as amended) in relation to confidential or exempt information.

- (b) The Corporate Overview and Scrutiny Management Board or Scrutiny Committee will, by notice in writing to the Head of Legal and Democratic Services, require the Council or Executive:
- (i) to consider the report or recommendations,
  - (ii) to respond to the Corporate Overview and Scrutiny Management Board or Scrutiny Committee indicating what, if any action the Council or Executive proposes to take,
  - (iii) if the Corporate Overview and Scrutiny Management Board or Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,
  - (iv) if the Corporate Overview and Scrutiny Management Board or Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Board, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

and to do so within two months of the date when the Council or Executive received the report or recommendations or (if later) the date when the Head of Legal and Democratic Services received the notice.

## 25. **Scrutiny of Crime and Disorder Matters**

- (a) The Safer and Stronger Communities Scrutiny Committee may make a report or recommendations to the Council with respect to any local crime and disorder matter in relation to a Member of the Council.

(NOTE - A local crime and disorder matter in relation to a Member means any matter concerning:

- crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment);
- the misuse of drugs, alcohol or other substances which affects all or part of the Member's electoral area (or any person who lives or works in that area)).

- (b) Any Member of the Council may give notice to the Head of Legal and Democratic Services that they wish an item which they consider to be a crime and disorder matter to be included on the agenda for discussion

at the next meeting of the Safer and Stronger Communities Scrutiny Committee.

- (c) On receipt of the request, the Head of Legal and Democratic Services will ensure that the item is included on the next available agenda for consideration by the Safer and Stronger Communities Scrutiny Committee.
- (d) Sub-paragraphs (g) to (k) of paragraph 23 above shall apply to the consideration of a crime and disorder matter by the Safer and Stronger Communities Scrutiny Committee as they apply to the consideration of a Call for Action by the Corporate Overview and Scrutiny Management Board or relevant Scrutiny Committee.
- (e) If the Safer and Stronger Communities Scrutiny Committee decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.
- (f) Where the Committee makes a report or recommendations to the Council it must:
  - (i) provide a copy of the report or recommendations to the Member who referred the matter to the Committee and
  - (ii) provide a copy of the report or recommendations to such of:
    - the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998); and
    - the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) of the Crime and Disorder Act 1998);as it thinks appropriate.
- (g) Where the Safer and Stronger Communities Scrutiny Committee makes a report or recommendations to the Council or provides a copy of a report or recommendations under sub-paragraph (f)(ii) above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:
  - (i) consider the report or recommendations;
  - (ii) respond to the Safer and Stronger Communities Scrutiny Committee indicating what (if any) action it proposes to take;

- (iii) have regard to the report or recommendations in exercising its functions.
- (h) For the purpose of carrying out its functions under the Crime and Disorder (Overview and Scrutiny) Regulations, 2009, the Safer and Stronger Communities Scrutiny Committee will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every 12 month period.
- (i) Where the Safer and Stronger Communities Scrutiny Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act, 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

**26. Consideration of requests to review how a petition has been dealt with under the Petitions process.**

- (a) Whilst there is no automatic right of review as to how a petition has been dealt with within the Council's petitions process, if a petitioner feels that we have not dealt with their petition properly, the petition organiser may request that the Council's Corporate Overview and Scrutiny Management Board review the response to the petition. The request should be accompanied by a short explanation of the reasons why the Council's response is not considered to be adequate.
- (b) The Chair of the Corporate Overview and Scrutiny Management Board, in consultation with the Council's Monitoring Officer and Scrutiny Officer will determine if the request is believed to merit consideration at the Corporate Overview and Scrutiny Management Board or the appropriate Overview and Scrutiny Committee.
- (c) If the request to review the Council's determination of the petition is agreed the Corporate Overview and Scrutiny Management Board or the appropriate Overview and Scrutiny Committee will endeavour to consider the request at the next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.
- (d) Should the Board / Committee determine that we have not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive or referring the matter for consideration by full Council.

- (e) Once a request to review the petition response has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on the council's website.
- (f) Full details of the review mechanism can be found within the Council's petitions process, which can be found on the Council's website.

# Highways Committee

## Representation Procedure

1. Wherever possible, objections or representations on Orders or Applications should be made in writing. Representations or objections received will be summarised and reported to the Highways Committee. Members of the Committee will be given the opportunity to inspect all letters received before the decision on the Application or Order is made.
2. There will be occasions when applicants, supporters, objectors, Ward Members and Parish/Town Council representatives, or some of these, may wish to make representations ~~in person to~~ **at the Committee meeting**. In such circumstances the following procedure will normally apply:
  - (a) The applicant and any supporters will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The applicant, ~~and~~ supporters, objectors, Ward Members and Parish/Town Council representative will also be informed that they have the right to attend the Committee **meeting** and make representations **at the meeting person**. They will be asked to indicate whether they wish to do so and if so will be invited to the meeting at which the decision is to be made.

However, except for Ward Members, any person wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak **by noon two working days last working day before the** Committee Meeting **to allow technical arrangements to be put in place**. **Persons registering their intention to speak after this time will ~~in the absence of which they~~** will only be permitted to speak at the discretion of the Chair.
  - (b) Ward Members and the Parish/Town Council representative will be afforded an appropriate amount of time (at the discretion of the Chair) within which to address the Committee.
  - (c) Each other group of speakers (objectors and **A**applicants/supporters) will be allowed a maximum of five minutes (except at the discretion of the Chair) to address the Committee. In the event that more than one person wishes to speak for or against the Order or Application, the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson **and for this to be agreed in advance of the meeting where possible** .
  - (d) At the meeting the Officer will present their report first.
  - (e) The Parish/Town Council representative will then address the Committee.



- (f) The Ward Member will then address the Committee.
- (g) The objectors will then make their representations and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (h) The applicant/supporter will then make their representations and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (i) Officers may comment on the representations and the merits of the ~~A~~application/ ~~or O~~order.
- (j) The Committee will proceed to debate the ~~A~~application ~~or O~~order and make a decision. The minute will include the reasons for that decision.
- (k) New documents should not be circulated to the Committee; Members may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

### **Submission of Documentary Evidence for Village Green matters**

- 3. (a) The Council will allow an applicant at least 28 days to respond to any objection the Council receives in response to the application. Once the period of 28 days has elapsed the council may arrange for the Highways Committee to consider the application.
- (b) If the Highways Committee is satisfied that it has sufficient evidence to grant or reject the application it may make a decision having given Interested Parties the opportunity to make representations in accordance with the procedure set out above.
- (c) The Committee may in its discretion resolve that a Public Inquiry be held and the Inspector's recommendations be requested before the Committee makes a final determination.
- (d) The period for submitting evidence in support of or in opposition to the application will end 28 days after any objections have been sent to the applicant or at the end of the Objection period if no objections are received unless the Chair of the Highways Committee exercises discretion to permit late evidence.

# **Code of Practice for Members and Officers Dealing with Planning Matters**

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice should be sought on the interpretation of the Code of Conduct or this Code, where required.

## **1. INTRODUCTION**

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between members and officers and between the public and the council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
  - (a) Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - (b) Members should not place themselves in situations where their honesty or integrity may be questioned.
  - (c) Members should make decisions on merit.
  - (d) Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - (e) Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - (f) Members should respect the impartiality and integrity of officers.

- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgment and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that members and officers of the County Council shall follow when involved in planning matters. Planning matters include the consideration of planning and associated applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 This code is largely based upon the Local Government Association's Guidance entitled Probity in Planning for councillors and officers published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been taken of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.
- 1.7 Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

## **2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 2.2 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.

- 2.3 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgment and make a decision in the interests of the County as a whole.
- 2.4 Whilst members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.5 Members should treat with extreme caution any offer of a gift or hospitality which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its members or other officers, have prevailed upon the officer to put forward their professional view as something other than it really is.
- 2.8 The County Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 The County Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. A superior officer shall not have the power to overrule the professional advice of the head of the planning service.
- 2.10 Officers shall follow the guidance on their standards of conduct as set out in the County Council's Staff Guidance, the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000 (as amended).

### 3. DECLARATION OF INTERESTS

- 3.1 The Council's Code of Conduct advises members on the disclosure of interests and must be followed by Members at all times.
- 3.2 Where a member has an **Disclosable Pecuniary Interest** in an item of business, the member shall declare it at the earliest opportunity, must not participate in any discussion or vote taken on the matter at the meeting, must leave the **meeting** where the matter is being considered and must not try to influence those making the decision or take any part in the consideration or determination of the matter.
- 3.3 **Where a member has an Other Relevant Interest in an item of business, the member shall declare it at the earliest opportunity. The member may make a representation on the item but will not be permitted to participate in any discussion or vote taken on the matter at the meeting. The member must leave the meeting once the representation has been made to avoid influence on those making the decision.**
- 3.4 **New** Rules in relation to bias and predetermination were introduced by section 25 of the Localism Act 2011. The rules apply if there is an issue about the validity of a decision and it is relevant to that issue whether a member had or appeared to have a closed mind when making the decision. Under the rules a member is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because they had previously done anything that directly or indirectly indicated the view the member took, or would or might take, in relation to a matter relevant to the decision.
- 3.5 The principle that members must not participate in decisions where they are perceived to be biased remains. An example would be a member who was a governor of a school which was putting forward a planning application.
- 3.6 Members should not act as agents for persons pursuing planning matters within their authority. If they submit their own proposal to the authority on which they serve, they should play no part in its consideration. When submitting proposals on behalf of themselves, the Member shall inform the Monitoring Officer of the submission.
- 3.7 Officers must always act impartially. An officer, who believes they may be seen to have an interest in a planning matter shall declare it at the earliest opportunity to the Head of Planning and the Monitoring Officer and have no further involvement in the processing or consideration of that matter
- 3.8 Planning officers shall never act as agents for persons pursuing a planning matter within the county or one outside significantly affecting the county.

#### **4. 'DUAL-HATTED MEMBERS'**

- 4.1 The Council's Code of Conduct does not automatically prevent members from considering the same issue at more than one tier of local government, including speaking and voting at both tiers.
- 4.2 For example, if a member is also a member of a parish council, and the parish council is consulted on a planning application to be determined by the Planning Committee, the member may participate in the discussion and vote at the parish council meeting; but it would be prudent to inform the parish council that the member will reconsider the matter taking into account all the information that is put before the Planning Committee. At the subsequent meeting of the Planning Committee the member should declare that as a member of the parish council, they have already expressed a view on the matter, but make it clear that this view does not bind the member who will consider the matter afresh. The member will be free to participate in the debate and vote on the matter.
- 4.3 However, if the Planning Committee considers a planning application by an authority or body on which a member serves, then the member should declare an other relevant interest, take no part in the discussion and determination of the proposal and leave the meeting room while the discussion and voting takes place.

#### **5. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

- 5.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 5.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 5.3 Members of the planning committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an other relevant interest, take no part in the discussion and determination of that proposal and leave the meeting room while the discussion and voting takes place.
- 5.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## 6. LOBBYING OF AND BY MEMBERS

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees and neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members should make clear that they reserve their final decision on a proposal until the committee meeting.
- 6.5 Members of the planning committee shall not, in general, organise support or opposition for a proposal, or lobby other members (other than when addressing the planning committee). Members of the Council shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting but not vote. The member of an adjacent division substantially affected by the proposal shall, at the discretion of the Chair of the Planning Committee, be allowed to attend and speak but not vote. A local member who has a disclosable pecuniary interest or other relevant interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about their position.
- 6.7 If a member of the Planning Committee identifies themselves with a group or individual campaigning for or against an application, they shall declare an Other Relevant Interest and not vote or decide on the matter. However, that member shall be given the opportunity to address the Committee.

- 6.8 Members of a ~~p~~Planning ~~e~~Committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the ~~Planning Ceommittee~~ meeting shall not be used to decide how members should vote at the ~~planning-committee meeting~~.

## **7. PRE-AND POST-APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is actively encouraged in accordance with the Council's protocol on pre-application advice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Members need to preserve their role as impartial decision makers and should not ordinarily take part in pre-or post-submission discussions and negotiations with applicants regarding development proposals. The exception to this is for those major schemes which are considered to be of importance to the County or schemes that are likely to be highly contentious and are therefore subject to the Council's Pre-Application Member Engagement protocol which provides for structured arrangements with officers and a prospective developer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by members should be provided to the officers dealing with the application.



## **8. OFFICER REPORTS TO COMMITTEE**

- 8.1 The Head of Planning will submit written reports to the Planning Committee on planning applications to be determined by the County Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning shall include in their report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with their own comments. The reports will include a summary of representations made about the application including those made by the applicant. The Head of Planning in their report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Head of Planning will **have make** available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## **9. THE DECISION MAKING PROCESS**

- 9.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 9.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 9.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 9.4 Where the Planning Committee decide to adopt the recommendation of the Head of Planning, the reasons contained in their report will be minuted, together with any additional reasons determined by the Committee.
- 9.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning, agreement shall be reached at the meeting on the reasons for that decision. They shall be fully minuted by the Head of Legal and Democratic Services.
- 9.6 Members who are not present at the meeting for the duration of the planning officers presentation, any subsequent representations and the entire Member

debate shall not (save at the discretion of the Chair) be entitled to vote on the matter under consideration.

## **10. SITE VISITS BY THE COMMITTEE**

10.1 A site visit is only likely to be necessary if:

- (a) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;
- (b) the comments of the applicant and objectors cannot be expressed adequately in writing; or
- (c) the proposal is particularly contentious.

10.2 Site visits will be organised in accordance with the following procedures:

- (a) The Head of Legal and Democratic Services will invite the local County Councillor to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the Planning Committee, the local County Councillor for the adjacent division will also be invited.
- (b) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
- (c) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
- (d) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning, or their representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning, the Chair will bring the site visit to a close.
- (e) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application.

- (f) In all cases the safety of those engaged in the site visit is of paramount importance. In cases where Officers consider a proposal is likely to generate hostility as part of a site visit the Head of Planning or their representative will liaise with the Health and Safety Manager to undertake a risk assessment ahead of the planned visit. Appropriate control measures will be identified as part of the risk assessment and discussed with the Chair in advance of the visit.

## 11. REPRESENTATIONS ON PLANNING APPLICATIONS

- 11.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members of the Committee will be given the opportunity to inspect all letters received before the decision on the application is made.
- 11.2 There will be occasions when applicants, supporters, objectors, Ward Members and Parish/Town Council representatives or some of these, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will normally apply:
- (a) The applicant and any supporters will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The applicant, supporters, objectors, Ward Members and Parish/Town Council Representative will also be informed that they have the right to attend the Committee **meeting** and make representations **at the meeting-in-person**. They will be asked to indicate whether they wish to do so and, if so, will be invited to the meeting at which the decision is to be made. However, except for Ward Members, any person wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon **two working days on the last working day** before the Committee Meeting **to allow technical arrangements to be put in place. Persons registering their intention to speak after this time in the absence of which they** will only be permitted to speak at the discretion of the Chair.
- (b) Ward Members and the Parish/Town Council representative will be afforded an appropriate amount of time (at the discretion of the Chair) within which to address the Committee.
- (c) Each other group of speakers (objectors and applicants/supporters) will be allowed a maximum of five minutes (except at the discretion of the Chair) to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson **and for this to be agreed in advance of the meeting where possible**

- (c) At the meeting the Officer will present their report first.
- (e) The Parish/Town Council representative will then address the Committee.
- (f) The Ward Member will then address the Committee.
- (g) The objectors will then make their representations, and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (h) The applicant/supporter will then make their representations and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (i) Officers may comment on the representations and the merits of the application.
- (j) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.
- (k) New documents should not be circulated to the Committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

## **12. REVIEW OF DECISIONS**

- 12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 12.2 Visits to application sites previously considered by the County Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 12.3 Attendance at the review site visits shall be restricted to members of the committee and the local County Council members.