



## **The Constitution**

### **Part 4 Rules of Procedure**



## The Constitution, Part 4 - Rules of Procedure

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# 1. Annual Meeting of the Council

## Timing and business

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

The Annual Meeting will:

- i. elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii. elect the Mayor of Council;
- iii. elect the Deputy Mayor of Council;
- iv. approve the minutes of the last meeting;
- v. receive any announcements from the Mayor;
- vi. elect the Leader where a vacancy has occurred ;
- vii. receive the Leader's report on the appointment of the Deputy Leader of the Council and the number of and the names of the members of Cabinet;
- ix. receive the Leader's report on the Cabinet portfolios and their allocation to members of the Cabinet;
- x. appoint an Overview and Scrutiny Committee, a Standards Committee, a Licensing Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- xi. appoint to those Committees in accordance with the political balance rules where applicable except where the appointment is exercisable only by the Cabinet;
- xii. to consider the following motion to be proposed by the Leader of the Council and seconded by the Deputy Leader:-  

"That the Council agrees the programme for the ensuing municipal year as proposed by the Leader of the Council" to which no amendment may be moved."

## 2. Ordinary Meetings

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

- i. elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii. approve the minutes of the last meeting;
- iii. receive any declarations of interest from Councillors;
- iv. receive any announcements from the Mayor and/or Leader;
- v. receive questions from, and provide answers to, the public;

- vi. deal with any business from the last Council meeting;
- vii. consider motions;
- viii. consider any changes to the membership of Committees;
- ix. receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- x. receive reports about and receive questions and answers on the business of joint arrangements and external organisations; and
- xi. consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee for debate; and

### **3. Extraordinary and Special Meetings**

#### **Calling extraordinary meetings**

- 3.1 Those listed below may request the Chief Legal Officer to call Council meetings in addition to ordinary meetings:
- i. the Council by resolution;
  - ii. the Mayor of the Council;
  - iii. the Monitoring Officer; and

any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Special Meetings**

- 3.2 Special meetings are set in the programme for meetings at the commencement of the municipal year.
- 3.3 The only business which may be considered at an extraordinary or special meeting is the business for which the meeting was called or set as the case may be.
- 3.4 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **4. Appointment of Substitute Members of Committees and Sub-Committees**

- 4.1 There shall be no substitution of members of the Licensing Committee or the Cabinet. Members of the Cabinet may not be substitutes on Overview and Scrutiny Committee. The Leader may not substitute on Standards Committee.
- 4.2 The political groups may appoint substitute members in accordance with this

Rule on Committees and Sub-Committees. Only Councillors who have undergone related training may be substituted to Standards Committee, Planning Committee and Environment and Safety Committee. Only members of Cabinet may be substituted to Charity Committee.

- 4.3 Substitute members will have all the powers and duties of any ordinary member of the Committee.
- 4.4 Substitute members may attend meetings in that capacity only:
- i. to take the place of the ordinary member for whom they are the designated substitute;
  - ii. where the ordinary member will be absent for the whole of the meeting or, in the case of the Charity Committee, for such item or items as shall be notified to the Chief Legal Officer under iii. below; and
  - iii. after notifying the Chief Legal Officer no later than the commencement of the relevant meeting in the form supplied.

## **5. Time and Place of Meetings**

The time and place of meetings will be determined by the Chief Legal Officer and notified in the summons. All Council meetings unless otherwise determined shall be held in Muriel Matters House, Breeds Place, Hastings.

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

The Chief Legal Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Legal Officer will send a signed summons by post or electronic mail to every member of the Council or leave it at their usual place of residence. 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.

## **7. Chair of Meeting**

The ruling of the Mayor as to the construction or application of any of these rules, or as to any proceedings of the Council, shall be final. Subject to the requirement that the election of Mayor is to be the first item for discussion at Annual Council the Mayor shall have power to adjust the order of items on the agenda where he or she considers that it would be in the interests of the proper conduct of the meeting.

The Mayor may adjourn a meeting of the Council for such period as he or she considers appropriate. In the event of an adjournment, the Mayor may, at the time of the adjournment or subsequently, fix a date and time for the meeting to resume. If no date and time is fixed the outstanding business shall be dealt with at the next ordinary meeting of the Council.

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chair of Committees and Sub-Committees.

In the absence of the Mayor and Deputy Mayor, the Chief Legal Officer shall call on any



Councillor present at a Council meeting to move that a Councillor can chair the meeting. If discussion arises, the Chief Legal Officer shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting. This rule shall apply to Committees and Sub-Committees in the same way except that members of Cabinet are not excluded by virtue of this Rule alone.

## **8. Quorum**

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor or 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 Mayor or Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for Committees is one quarter of the membership, subject to a minimum of three.

The Standards Committee and Cabinet have their own rules as to quorum. These are set out in Article 9 of Part 2 and in the Cabinet Procedure Rules.

## **9. Duration of Meeting**

Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **10. Petitions Scheme**

The Council welcomes petitions and recognises that petitions are one way in which people can bring their concerns to the attention of the Council. The subject of any petition to be presented must relate to a matter for which the Council has powers, duties or functions or which affects the Borough or part of it or its inhabitants. However, the Council will not deal with a petition which in the opinion of the Monitoring Officer is vexatious, abusive, similar in nature to one previously accepted within the past year or otherwise inappropriate to be considered under this rule.

There are different types of petition as set out below.

### **Ordinary petitions**

10.1 These are petitions which relate to matters for which the Council has powers, duties and responsibilities or which affects the Borough or part of it or people who live work or study in the Borough. These petitions should be presented to the Mayor or to the Chief Legal Officer at Muriel Matters House, Breeds Place, Hastings, TN34 3UY.

A petition shall comply with the following:-

- (a) The wording of the petition will appear at the head of each page of signatures.
- (b) The petition shall bear the signatures of ten or more persons from different households who live, work or study in the Borough.

- (c) The petition presented shall be the original and shall bear the signatures, name and address of each signatory.
  - (d) By signing the petition the petitioner is agreeing to have their personal information published in the public domain.
- 10.2 A petition shall NOT be presented if it relates to:
- (a) matters relating to an individual or relating to a current housing or grant application;
  - (b) matters which are the subject of legal proceedings or an appeal to a tribunal or government minister or an investigation by the Local Government Ombudsman or the Standards Committee or through the Council's Corporate Complaints Procedure;
  - (c) matters relating to a Council Officer or the conduct of a Councillor; or
  - (d) any other matter which would require the release of any exempt information as defined in Part 1 of Schedule 12A of the Local Government Act 1972.

### **Consultation petitions**

10.3 These are petitions compiled in response to consultation by the Council on a proposal such as a planning application, licensing application, proposed policy or strategy. Such petitions should be returned to the address in the consultation and will be considered by the Committee or body with responsibility for making the decision or recommendation.

### **Governance Petitions**

10.4 These petitions are outside the Petitions Scheme. These relate to such matters as a call from electors for the Council to hold a referendum on whether to have an elected Mayor or for the establishment of a parish or community council in part of the Council's area. The legislation governing E-Petitions has not yet been extended to such petitions.

### **Petitions for Debate**

10.5 A petition which can require a debate at a meeting of the Council must comply with Rule 10.1 above except that it must have at least 1,500 signatures or more of persons who live, work or study in the Borough.

This rule does not apply where the petition requires that an Officer be called to account.

A petition for debate at Council will be reported to the next available ordinary meeting of the Council, when the petition organiser will be given 5 minutes in which to address the Council, followed by questions from Councillors. Council will then discuss the subject of the petition for no more than 15 minutes.

The Council then has the following options:-

- a. where it is a decision on which it can make a decision, to make a decision;
- b. where the decision is one which only Cabinet can make, to refer the matter to Cabinet for consideration with or without Council's recommendations; or
- c. refer the matter to another committee with responsibility, such as the Overview

and Scrutiny Committee for investigation and, possibly, further report.

Petitions for debate should be addressed to the Council as for Ordinary Petitions.

### **Petitions to call an Officer to account**

10.6 There may be exceptional circumstances where a petition is used to call a relevant Officer of the Council to account so that he or she is required to attend before the Overview and Scrutiny Committee to give evidence and to answer questions on a particular matter.

The petition must satisfy the requirements of Rule 10.1, except that it shall bear at least 750 signatures of persons who live, work or study in the Borough. The petition must also identify the Officer to be called to account either by name or job title. The petition must also give grounds for the request which relate to the discharge of functions for which the Officer is responsible.

Relevant Officers who may be called to account by such a petition are the Chief Officers.

On receipt of such a petition, the Overview and Scrutiny Committee will exercise its powers under Section 21(13) (a) Local Government Act 2000 to require the relevant person to appear before it to answer questions relevant to the petition. It may decide that an Officer other than that Officer identified in the petition would be more appropriate to attend for questioning and the Head of Paid Service, will be consulted on this before another Officer is asked to attend.

Only members of the Committee may address questions to the Officer and the Chair may pose questions provided by the petition organiser to the Chief Legal Officer at least three working days before the meeting.

Following such attendance and questioning, the Committee will then make a report or recommendations to the Council or Cabinet, as appropriate, and send a copy of the report or recommendations to the petition organiser.

Petitions to call an Officer to account should be addressed to the Council as for ordinary petitions.

### **E-Petitions**

10.7 The Council acknowledges that E-Petitions can be a faster, more convenient alternative to a more traditional paper petition and therefore accepts the submission of E-Petitions. The E-Petition facility is facilitated by Modern.Gov and can be accessed using the link on the Hastings Borough Council website. The minimum number of signatures required for an E-Petition to be considered under this rule is ten for ordinary and consultation petitions, 750 for petitions calling Officers to account and 1500 for petitions for debate as described above in paragraphs 10.1 to 10.6. For E-Petitions relating to current planning applications and current licensing applications the minimum number of signatures required for an E-Petition to be considered under this rule is ten from different households. The same rules and procedures apply as for paper petitions and the signatories must all live, work or study in the Borough. Where an identical E-Petition and paper petition and both received in respect of the same matter, the Council will accept the petition which is received first. E-petitions are not accepted for petitions alleging misconduct by a Councillor or Councillors (complaint to Standards Committee), relating to a Council Officer or Service (Corporate Complaints Process / Disciplinary), or to matters relating to an individual..

## Current Planning Applications

10.8 E-Petitions which relate to current planning applications are accepted by the Council subject to the following:-

- a) They must contain a minimum of ten signatories from different households.
- b) All signatories must live, work or study in the Borough. Random checks that signatories meet this criteria will be undertaken.
- c) The E-Petition must clearly state the planning application reference number to which it is referring, giving the full address of the property / site, the reasons for the petition and what action or decision you want the Council / relevant Committee to take.
- d) E-Petitions regarding current planning applications should be submitted within 21 days of the date the application is initially advertised (by press notice / site notice or letter where appropriate). This is to ensure that they are fully taken into account in the assessment of the application. Signatures cannot be collected on an E-Petition beyond this period.
- e) E-Petitions relating to current planning applications must state who the Lead Petitioner is and how they can be contacted.
- f) E-Petitions can be submitted for current planning applications which are scheduled to be determined by the Planning Committee in accordance with the Council's public speaking rights as set out in the Planning Protocol (Part 5 of the Constitution). E-Petitions can only be accepted **at least three clear working days** before the Planning Committee considering the item is due to sit and the petition is contrary to the Officer's recommendation.
- g) An acknowledgement will be sent to the Lead Petitioner within 10 working days of receipt of the petition (excluding E-Petitions submitted following publication of the Planning Committee agenda set out in f) above. The Lead Petitioner will be notified if the application is referred to the Planning Committee and advised of the date of the Planning Committee meeting and their public speaking rights (if relevant).
- h) Validated E-Petitions regarding current planning applications will be uploaded onto the application file and available for public inspection on the Council's website.
- i) Paper petitions will still be accepted for current planning applications.

## Current Licensing Applications

10.9 E-Petitions which relate to current licensing applications are accepted by the Council subject to the following:-

- a) They must contain a minimum of ten signatories from different households.
- b) All signatories must live, work or study in the Borough. Random checks that signatories meet this criteria will be undertaken.
- c) The E-Petition must clearly state the [name of the business which is subject of the licensing application](#), giving the full address of the property, the reasons for the petition and what action or decision you want the Council / relevant Committee to take.

- d) E-Petitions regarding current licensing applications under the Licensing Act 2003 should be submitted within 28 consecutive working days commencing the day after the application is submitted. This is to ensure that they are fully taken into account in the assessment of the application. Signatures cannot be collected on an E-Petition beyond this period.
- e) E-Petitions relating to current licensing applications must state who the Lead Petitioner is and how they can be contacted.
- f) An acknowledgement will be sent to the Lead Petitioner within 10 working days of receipt of the petition. The Lead Petitioner will be notified if the application is referred to the relevant Committee and advised of the date of the meeting.

Guidance on the submission of E-Petitions can be found on the Council's website at <https://hastings.moderngov.co.uk/mgEPetitionListDisplay.aspx?bcr=1>

### **How will the Council respond to petitions? (Excluding E-Petitions relating to current planning and licensing applications which are dealt with separately above)**

10.10 An acknowledgement will be sent to the petition organiser within 10 working days of receipt of the petition, notifying how it is intended to deal with the petition and indicating when the petition organiser will be contacted again. This might include setting out the Council's views about the request in the petition

If the Council can do what the petition requests immediately, the Council will acknowledge that it has received the petition and tell the petition organiser that the Council has taken the action requested and the petition will be closed.

Otherwise the Council's response to a petition will depend on what a petition asks for and how many people have signed it. This could include one or more of the following: -

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council's Overview and Scrutiny Committee
- writing to the petition organiser setting out the Council's views about the request in the petition
- no further action and the petition will be returned to the sender.

If the petitioner is heard at any meeting of the Council they will be given up to 5 minutes in which to address the meeting followed by questions from Councillors (if applicable). Only one member of the delegation presenting the petition should be allowed to speak and must be someone who resides, works or studies in the Borough.

## **Conclusion of the petition process**

10.11 Once the petition has been dealt with in accordance with this rule, the petition organiser will be advised in writing within 10 working days of the outcome of the petition if they were not present at the meeting where the petition was discussed.

## **Review of steps taken in response to the petition by the Overview and Scrutiny Committee**

10.12 If the petition organiser is not satisfied that the petition has been dealt with properly, the petition organiser may request that the Overview and Scrutiny Committee reviews the adequacy of the steps taken or proposed to be taken in response to the petition.

On receipt of a request for a review, the Overview and Scrutiny Committee shall consider the request at its next available meeting or as soon as practicable thereafter.

The Council shall within 10 working days of the decision on review inform the petition organiser of the outcome of the review.

## **11. Public Question Time**

### **General**

11.1 Members of the public who reside or work in the Borough may at ordinary meetings of the Council, in accordance with these rules, ask questions of the Leader and Portfolio Holders (including the Chair of Charity Committee) on any matter within the Borough Council's powers, duties or functions. Public question time will last no longer than 30 minutes. A question asked within the 30 minutes will be answered.

### **Order of questions**

11.2 Questions will be asked in the order in which they are recorded as being received by the Chief Legal Officer, except that the Mayor may group together similar questions.

### **Notice of questions**

11.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Legal Officer no later than five clear working days before the day of the meeting. Each question must give the name and address of the questioner.

### **Number of questions**

11.4 At any one meeting no person or organisation may submit more than one question.

### **Scope of questions**

- 11.5 The Chief Legal Officer may reject a question and the ruling shall be final if:
- it is not about a matter for which the local authority has a responsibility, power, duty or function or which affects the Borough;
  - it is defamatory, frivolous or offensive;
  - it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - it requires the disclosure of confidential or exempt information;
  - its purpose is not primarily to seek information.
  - it is about a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure;
  - the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

### **Copies of questions**

- 11.6 Copies of all questions received together with the written reply from the Leader or relevant Portfolio Holder will be circulated to all Councillors and will be made available to members of the public attending the meeting. The question and answer will be taken as read.

### **Supplementary question**

- 11.7 A questioner who has submitted a question may also ask one supplementary question, without notice, to the Cabinet member who has replied to his or her original question. Questions shall be put and answered without debate. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

### **Written answers**

- 11.8 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 Cabinet member to whom it was to be put, will be dealt with by a written answer within 10 working days of the Council meeting at which the question was asked.

## **12. Questions by Councillors**

### **Questions on notice at Full Council**

- 12.1 A Councillor may also submit one written question to the Chief Legal Officer five clear working days before the relevant meeting.

A member of the Council may ask:

- the Mayor;

- the Leader or a Portfolio Holder; or
- the Chair of any Committee or Sub-Committee

one question on any matter in relation to which the Council has powers, duties or functions or which affects Hastings Borough. The Chief Legal Officer may reject a question and the ruling shall be final if it:

- It is not about a matter for which the local authority has a responsibility power, duty or function or which affects the Borough;
- It is defamatory, frivolous or offensive;
- It is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- It requires the disclosure of confidential or exempt information;
- It is about a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure; or
- the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort.

## **Response**

- 12.2 An answer may take the form of:
- a direct oral answer;
  - where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

## **Supplementary question**

- 12.3 A Councillor who has submitted a question may ask one supplementary question, without notice, of the Councillor to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

## **Questions to the Leader, Deputy Leader or other Portfolio Holder**

- 12.4 At each ordinary meeting of the Council a maximum period of 30 minutes shall be set aside for oral questions by Councillors to the Leader, Deputy Leader or other Portfolio Holder,(including the Chair of Charity Committee).
- 12.5 The Leaders of the opposition group/s are entitled to ask the first questions, such questions to be received in order of group size.
- 12.6 All other Councillors may, subject to the time limit, ask a question. The Mayor shall determine the order of these questions. If time permits Councillors may ask a further question.
- 12.7 When asking a question the Councillor must identify the Councillor to whom the question is addressed.



- 12.8 The Mayor may disallow a question on any of the following grounds:-
- it is not relevant to the functions, powers and duties of the Council
  - it is wholly or partly frivolous or derogatory to the dignity of Council
  - it is not put with reasonable brevity
  - it comprises more than one part
  - it is identical or moderately similar to another question which has already been put during question time.
- 12.9 No supplementary questions are permitted.

### **On reports of the Cabinet or Committees**

- 12.10 A member of the Council may ask the Leader, Deputy Leader or a Portfolio Holder any question without notice upon an item of the report of the Cabinet when that item is being received or under consideration by the Council.

### **Ward Councillors to Speak at any Meeting**

- 12.11 A Councillor may speak on an item particularly affecting their ward at any meeting of Council bodies of which he or she is not a member, subject to any limitations imposed by law or this Constitution.

## **13. Reports and Minutes of Cabinet and Committees**

- 13.1 At ordinary meetings of the Council when the appropriate agenda item is reached the Mayor will ask the Councillors to state the numbers of the items on which they wish to speak. This process is known as "call-over". Such items are called "reserved items".
- 13.2 When an item is reserved, any other item before the Council ruled by the Mayor to be related to it shall be deemed to be reserved.
- 13.3 No discussion shall take place on any items which have not been reserved. Items not reserved, including items requiring Council decision, shall be deemed adopted without discussion.
- 13.4 Where the decision to be taken is a decision for the Council, the Leader and Chairs of Committees (starting with the Leader or relevant Cabinet Member) shall move in turn the adoption of the recommendations as set out in the items in the report or minutes of the Cabinet or Committee, which have been reserved, in the order which they appear on the agenda, save that reserved matters requiring Council decision will be called first.
- 13.5 In the absence of the Chair of a Committee or relevant Cabinet member, the Vice Chair or another Member nominated by the Chair may move the recommendations.
- 13.6 A motion to adopt the recommendations of Cabinet or Committee need not be seconded.
- 13.7 Where the Cabinet and Overview and Scrutiny Committee are reporting or making recommendations on the same subject matter, their reports or minutes shall be considered together and, if in the opinion of the Mayor, there is a

material difference between the recommendations, the Chair of the Overview and Scrutiny Committee (or nominee) shall move its recommendations as an amendment to the recommendations moved under Rule 13.4 as soon as these have been moved. This amendment need not be seconded and shall then be open for debate.

- 13.8 Where the reports or minutes on a reserved item do not contain any recommendations to the Council, the Mayor shall call the Councillor who reserved the item or their nominee to speak first. The Leader or relevant Cabinet member or Chair of the Committee concerned shall have the right of reply at the end of debate on the reserved item. No motion may be moved in respect of that matter other than to refer it back to the Cabinet for review or to the Overview and Scrutiny Committee for review and report. A motion to refer back a report or minute of the review of a decision previously referred back under this Rule or called-in under Rule 29.15 (unless as part of the call-in process) shall be out of order.

## 14. Motions on Notice

### Notice

- 14.1 Motions must be about matters for which the Council has statutory powers, duties or functions or address the built or natural environment of the Borough of Hastings or address a matter of local, regional or national policy that affects the lives of people in the Borough of Hastings. The ruling of the Monitoring Officer in consultation with the Mayor shall be final as to the relevance of the motion.

Further, a motion may not be tabled in any of the following circumstances:-

- a. any matter relating to an individual or individuals which relates to the application or use of any of the Council's powers, past or present, in respect of that individual, other than in relation to admission to the honorary freedom of the Borough or in relation to an individual as a Councillor holding office in the Council;
  - b. a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure;
  - c. the appointment, promotion, dismissal, salary or other payments, superannuation or conditions of employment or the conduct or ability of any individual employed by the Council or the conduct of a member of the Council;
  - d. any other matter which would require the disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.
- 14.2 Except for motions which can be moved without notice under Rule 15, written notice of every motion, signed by at least one Councillor, must be delivered to the Chief Legal Officer not later than 8 clear working days before the date of the Council meeting. These will be entered in a book open to public inspection.

## **Motion set out in agenda**

- 14.3 Motions for which notice has been given will be listed on the agenda in the order in which notice of the motion was received and the motion accepted, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 14.4 The agenda for each Council meeting, other than the Annual Meeting, shall include all notices of motions which relate to Council functions proposed to be moved at that meeting which have been received in time, accepted by the Chief Legal Officer and have not been withdrawn in writing by the proposer. Motions which are the responsibility of Council will be dealt with in the order upon which they are received.
- 14.5 If a motion set out in the summons is not moved either by a Councillor who gave notice thereof or by some other Councillor on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- 14.6 Motions which relate to matters which are not the responsibility of Council (e.g. Cabinet functions) will be referred by the Chief Legal Officer to the responsible body for consideration at its next available meeting. The proposer and seconder (or some other Councillor on their behalf) of the motion are entitled to speak to the motion at the meeting of that body. Only members of that body may move or second a proposition at the meeting of that body.
- 14.7 No notice of motion, which if adopted, will, in the opinion of the Mayor, rescind, or substantially reverse the effect of a Council resolution made within the previous six months, shall be proposed unless the notice is signed by a majority of the members of the Council.
- 14.8 The Chief Legal Officer will, if requested, help Councillors with the wording of motions.
- 14.9 No notice of motion shall be accepted which in the opinion of the Chief Legal Officer relates to a quasi judicial matter before the Council.

## **15. 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 Councillor arising from an item on the summons for the meeting;

- f. to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- g. to withdraw a motion;
- h. to amend a motion;
- i. to proceed to the next business;
- j. that the question be now put;
- k. to adjourn a debate;
- l. to adjourn a meeting;
- m. that the meeting continue beyond four hours in duration;
- n. to suspend a particular Council procedure rule;
- o. to exclude the public and press in accordance with the Access to Information Rules;
- p. to not hear further a Councillor named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
- q. to give the consent of the Council where its consent is required by this Constitution.
- r. questions by Councillors under Rule 12.1;
- s. to move into Committee under Rule 16.14.

## **16. Rules of Debate**

### **No speeches until motion has been seconded**

- 16.1 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded other than a motion to adopt the recommendations of Cabinet or a committee under Rule 13.4.

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

- 16.2 Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

### **Secunder's speech**

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

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

- 16.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed three minutes except:-
1. the Mayor's address to the Annual Council;

2. on the motion to adopt a programme for the year when the time limit for speeches by the Leader of the Council and the Leader of each Political Group having three or more Councillors, shall be 15 minutes;
3. on the motion to approve the capital programme and revenue budget for the next financial year, when the time limit for speeches by the Leader of the Council and the Leader of each Political Group having three or more Councillors shall be 15 minutes;
4. on a motion to adopt the Corporate Plan when the time limit for speeches by the Leader of the Council and the Leader of each Political Group having three or more Councillors, shall be 15 minutes;
5. when the Council (following a vote without debate) allows a Councillor's speech to continue for one further period of up to one minute.
6. the proposer of a motion to Council or item for Council decision will have 5 minutes to propose and 5 minutes for their right of reply. (This does not apply to call over for Cabinet minutes).

### **When a Councillor may speak again**

- 16.5 A Councillor who has spoken on an item may not speak again whilst it is the subject of debate, except:
- a. to speak once on an amendment moved by another Councillor;
  - b. to move a further amendment if the motion has been amended since he/she last spoke;
  - c. if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
  - d. in exercise of a right of reply;
  - e. on a point of order; and
  - f. by way of personal explanation.

### **Amendments to motions**

- 16.6
- 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 fully 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.

### **Alteration of motion**

16.7

- a. A Councillor may alter a motion of which he/she has given notice with the consent of the meeting and the seconder. The meeting's consent will be signified by a vote without discussion.
- b. A Councillor may alter a motion which he/she has 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.
- d. Where a proposed amendment is acceptable to the proposer of the original motion the consent of the seconder is required.

### **Withdrawal of motion**

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

### **Right of reply**

16.9

- 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 his or her amendment.

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

- 16.10 When a motion is under debate, no other motion may be moved except the following procedural motions:
- a. to withdraw a motion;
  - b. to amend a motion;
  - c. to proceed to the next business;
  - d. that the question be now put;
  - e. to adjourn a debate;

- f. to adjourn a meeting;
- g. that the meeting continue beyond four hours in duration
- h. to exclude the public and press in accordance with the Access to Information Rules; and
- i. to not hear further a Councillor named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

## **Closure motions**

### 16.11

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

## **Point of order**

- 16.12 A Councillor may raise a point of order at any time. The Councillor must indicate the rule or law and the way in which he/she considers it has been broken. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The ruling of the Mayor, who shall hear the Councillor immediately, will be final.

## **Personal explanation**

- 16.13 A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation

will be final.

### **Council proceeding as if in committee**

- 16.14 When the Council is debating some matter requiring a decision by the Council and the Council feels it is appropriate, it may resolve to proceed for all or some of that item as if it were a committee. This will enable the Council to take advice from officers, and such other persons as it sees fit, in order to inform its decision making. On closure of the debate in committee, the Mayor will invite Council to move to a vote on the matter in accordance with Rule 18.

## **17. Previous Decisions and Motions**

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

- 17.1 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 a majority of Councillors.

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

- 17.2 A motion or amendment in the same or 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 a majority of Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **18. Voting**

### **Majority**

- 18.1 Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Councillors voting at the time the question was put. For the avoidance of doubt, an abstention from voting does not constitute a vote and the majority, or such greater proportion otherwise required by law or this Constitution, shall be calculated from those voting for or against the motion.

### **Mayor's casting vote**

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

### **Show of hands**

- 18.3 Unless a recorded vote is demanded under Rules 18.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.



## **Recorded vote**

- 18.4 If six or more Councillors present at the meeting stand and request it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

- 18.5 Where any Councillors 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.

## **Voting on appointments**

- 18.6 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.

## **19. Minutes**

### **Signing the minutes**

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

### **No requirement to sign minutes of previous meeting at extraordinary and special meetings**

- 19.2 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) or a Special 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.

### **Form of minutes**

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

## **20. Record of Attendance**

A record of attendance shall be kept at every formal council meeting.

## **21. 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 23 (Disturbance by Public).

## **22. Councillors' Conduct**

### **Standing to speak**

- 22.1 When a Councillor speaks at full Council they must stand and address the meeting through the Mayor. If more than one Councillor stands, the Mayor will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation. The Mayor may excuse a Councillor from standing at his/her discretion.

### **Mayor standing**

- 22.2 When the Mayor stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent. Councillor not to be heard further

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

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

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

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

### **General disturbance**

- 22.5 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## **23. Disturbance by Public**

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

- 23.1 If a member of the public interrupts proceedings or behaves in an inappropriate manner the Mayor may warn the person concerned. If they continue to interrupt or behave inappropriately the Mayor may order their removal from the meeting room.

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

- 23.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.
- 23.3 Members of the public may not bring placards or banners into a meeting room.

## **24. Suspension and Amendment of Council Procedure Rules**

### **Suspension**

- 24.1 All of these Council Rules of Procedure except Rule 16.6, save to permit all proposals to be considered together when the Council is considering the budget and the corporate plan, and 17.2 may be suspended by motion on notice or without notice if at least two thirds of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### **Amendment**

- 24.2 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.

## **25. Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of full Council. Rules 9, 10, 12.11, 13.3, 16.1, 16.3, 16.6, 16.7, 16.8, 16.9, 16.10, 18, 19, 20, 21, 22.3, 22.4, 22.5, 23 and 24 apply to Cabinet. Rules 4-10 and 16, 18-21, 22.3, 22.4, 22.5, 23-25 apply to meetings of committees and sub-committees.

## **26. Access to Information Procedure Rules**

### **Scope**

#### **Cabinet Arrangements**

- 26.1. These rules apply to all meetings of the Council, Overview and Scrutiny Committee, the Standards Committee and regulatory committees and public meetings of the Cabinet (together called meetings).

#### **Additional Rights to Information**

- 26.2. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **Rights to Attend Meetings**

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

### **Notices of Meeting**

- 26.4. The Council will give at least five clear days notice of any meeting by posting details of the meeting at Muriel Matters House and on its website.

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

- 26.5. The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. It will also be circulated to Councillors.

### **Supply of Copies**

- 26.6. 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 proper officer 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.

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

- 26.7. 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 Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - b. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - c. the agenda for the meeting; and
  - d. reports relating to items when the meeting was open to the public.

### **Background Papers**

#### **List of background papers**

- 26.8. Council Officers will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a. disclose any facts or matters on which the report or an important part of the report is based; and
- b. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 26.11) and in respect of Cabinet reports, the advice of a political advisor.

### **Public Inspection of Background Papers**

26.9 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

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

26.10 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Muriel Matters House. These rules constitute that written summary

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

#### **Confidential information – Requirement to Exclude Public**

26.11 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**

26.12 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**

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

#### **Meaning of exempt information**

26.14 Exempt information means information falling within the following paragraphs (with Paragraphs 7a-7c being applicable only to the Standards Committee), but subject to the qualifications set out under 8-10 below.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person: or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
  - a. Information which is subject to any obligation of confidentiality.
  - b. Information which relates in any way to matters concerning national security.
  - c. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of the Localism Act 2011.

Qualifications:-

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
  - a. the Companies Act 1985;
  - b. the Friendly Societies Act 1974;
  - c. the Friendly Societies Act 1992;
  - d. the Industrial and Provident Societies Acts 1965 to 1978;
  - e. the Building Societies Act 1986; or
  - f. the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which –
  - a. falls within any of paragraphs 1 to 7 above; and
  - b. is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

- 26.15 If the Chief Legal Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 26.11 and Rule 26.12, 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.

## **Application of Rules**

- 26.16 The Access to Information rules apply to all council committees and the Cabinet.

## **Procedure Before Taking Key Decisions**

- 26.17 Subject to Rule 26.20 (general exception) and Rule 26.21 (special urgency), a key decision may not be taken unless:
- a. a notice (called here a Forward Plan) has been published in connection with the matter in question;
  - b. at least five clear days have elapsed since the publication of the Forward Plan; and
  - c. where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 26.4 (notice of meetings).

## **The Forward Plan**

### **Period of Forward Plan**

- 26.18 Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **Contents of Forward Plan**

- 26.19 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, Officers or under joint arrangements in the course of the discharge of Cabinet functions during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- a. the matter in respect of which a decision is to be made;
  - b. where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
  - c. the date on which, or the period within which, the decision will be taken;

- d. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e. the means by which any such consultation is proposed to be undertaken;
- f. the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- g. a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 28 days before the start of the period covered.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

### **General Exception**

- 26.20 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 26.21 (special urgency), the decision may still be taken if:
- a. the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
  - b. the Chief Legal Officer has informed the chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
  - c. the Chief Legal Officer has made copies of that notice available to the public at the offices of the Council; and
  - d. at least five clear days have elapsed since the Chief Legal Officer complied with b. and c.

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

### **Special Urgency**

- 26.21 If by virtue of the date by which a decision must be taken Rule 26.20 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor or, in his/her absence, the Deputy Mayor will suffice.

### **Emergency Situations**



26.22 In urgency and/or emergency situations whereby Cabinet or Council and their respective Committees cannot meet to determine the Council's business, delegated authority is given to the Council's Managing Director (or nominee) in consultation with a minimum of 4 members of Cabinet, one of whom to be the Leader or Deputy Leader of the Council. The Managing Director (or nominee) should also consult with the Leader or Deputy Leader of the opposition. The delegation is to cover all the Cabinet's and Council's powers, duties and functions not currently covered by Part 8 of the Council's Constitution. If the Managing Director's nominee is making a decision they must also consult with the Council's Monitoring Officer and Section 151 Officer. Emergency circumstances would include the sorts of events covered by our Emergency Plan as well as unprecedented episodes, such as pandemics. "Urgency" would in most cases be confined to essential decision making during such emergency situations. This change to apply from 19th March 2020 for a period of no more than 12 months. Any proposed extension or reinstatement of this change must be put to Full Council with full reasons outlined.

## **Report to Council**

### **When the Overview and Scrutiny Committee can require a Report**

- 26.23 If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:
- a. included in the Forward Plan; or
  - b. the subject of the general exception procedure; or
  - c. the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 26.21;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Legal Officer who shall require such a report on behalf of the committee when so requested by the Chair or any two members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **Cabinet's Report to Council**

- 26.24 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within eight clear working 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 or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **Half Yearly Reports on Special Urgency Decisions**

- 26.25 In any event the Leader will submit half yearly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 26.21 (special urgency) in the preceding six months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **Record of Decisions**

- 26.26 After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Legal Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **Notice of Meeting of the Cabinet**

- 26.27 Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **Overview and Scrutiny Committee Access to Documents**

### **Rights to copies**

- 26.27 Subject to Rule 26.28 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to
- a. any business transacted at a public or private meeting of the Cabinet or its committees; or
  - b. any decision taken by an individual member of the Cabinet.

### **Limit on rights**

- 26.28 The Overview and Scrutiny Committee will not be entitled to:
- a. any document that is in draft form;
  - b. any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the committee is reviewing or scrutinising or intends to scrutinise.

## **Additional Rights of Access for Councillors**

### **Material relating to previous business**

- 26.29 All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting

unless (a) below applies:

- a. it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information.

### **Material relating to key decisions**

26.30 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Rule 26.29a above applies.

### **Nature of rights**

26.31 These rights of a Councillor are additional to any other right he/she may have.

## **27. Budget and Policy Framework Procedure Rules**

### **The framework for Cabinet decisions**

27.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### **Process for developing the framework**

- 27.2 The process by which the budget and policy framework shall be developed is:
- a. The Cabinet will publicise, by including in the Forward Plan and any other appropriate means depending upon the circumstances, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
  - b. Before a plan/strategy/budget needs to be adopted, the Leader or relevant Portfolio Holder will publish initial proposals for the budget and policy framework in a manner suitable to the matter under consideration.
  - c. The initial proposals shall be referred to the Overview and Scrutiny Committee for advice and consideration. The views of local stakeholders will also be canvassed. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall have four weeks to respond to the proposals of the Cabinet.
  - d. Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council for consideration.
  - e. The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further

consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the Overview and Scrutiny Committee.

- f. The Council's decision will be published and a copy shall be given to the Leader to the Council. The notice of decision shall be dated and shall state either that the decision shall be effective immediately, if the Council accepts the Cabinet's proposals without amendment or, if the Cabinet's proposals are not accepted without amendment, that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- g. If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Legal Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Legal Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- h. The Council meeting must take place within eight working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- i. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.
- j. Where before 8 February in any financial year, Cabinet submits to Council for its consideration in relation to the following financial year
  1. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 Local Government Finance Act 1992 ("the calculation");
  2. estimates of other amounts to be used for the purposes of the calculation;
  3. estimates of such a calculation; or
  4. amounts required to be stated in a precept under Chapter IV of Part I Local Government Finance Act 1992

and Council objects to such estimates, Council shall, before it makes the calculation, take the following action. It shall inform the Leader of its objections and require Cabinet to reconsider the estimates and amounts in light of those objections, specifying a period of no less than eight working days, beginning with the date on which the Leader receives the instruction, within which the Leader may

- submit revised estimates or amounts to Council with Cabinet's reasons for the amendments; or
- inform Council of any disagreement Cabinet has with Council's objections and giving its reasons.

At the end of the period for objection, when considering the calculation, Council shall take account of Cabinet's responses.

(This paragraph does not apply to calculations made in accordance with Section 52I, 52J, 52T or 52U Local Government Finance Act 1992.)

- k. In approving the budget and policy framework, the Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rule 27.5. Any other changes to the budget and policy framework are reserved to the Council.

## **Decisions outside the budget or policy framework**

### 27.3

- a. Subject to the provisions of the rules on virement contained in Financial Rules, the Cabinet, committees of the Cabinet, and any Officers, or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 27.4 below
- b. If the Cabinet, committees of the Cabinet, any Officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 27.4 (urgent decisions outside the budget and policy framework) shall apply.

## **Urgent decisions outside the budget or policy framework**

### 27.4

- a. The Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging Cabinet functions may take a decision which is outside the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken if the chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of the Overview and Scrutiny Committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

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

## **In year changes to policy framework**

- 27.5 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, Officers, or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:
- a. which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
  - b. necessary to ensure compliance with the law, ministerial direction or government guidance;
  - c. in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **Call-in of decisions outside the budget or policy framework**

27.6

- a. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Chair of the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within five days of the request by Chair of the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - i. endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

- ii. amend the Council's financial rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

- iii. where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer / Chief Finance Officer.

## **28. Cabinet Procedure Rules**

### **How the Cabinet operates.**

#### **Who can make Cabinet decisions**

- 28.1 The arrangements for the discharge of Cabinet functions are set out in the arrangements adopted by the Council and explained in Part 3 of the Constitution. The arrangements may provide for executive functions to be discharged by:
- i. the Cabinet as a whole;
  - ii. a committee of the Cabinet;
  - iii. an individual member of the Cabinet;
  - iv. an Officer;
  - v. a neighbourhood forum;
  - vi. joint arrangements with another local authority;
  - vii. another local authority.
- 28.2 The Council appoints the Leader. The Leader appoints the Deputy Leader and members of the Cabinet. The Leader is also the Chair of Cabinet meetings. The Leader allocates portfolios to Cabinet members.

#### **Delegation of Cabinet Functions**

- 28.3 The Cabinet may delegate its functions to a committee of the Cabinet and may delegate decisions on matters of urgency to an individual Member of the Cabinet.

Where the Cabinet or a committee of the Cabinet is responsible for a Cabinet function, they may delegate further to an Officer.

#### **Conflicts of Interest**

- 28.4 Any conflict of interest by a member of the Cabinet will be dealt with in accordance with the Council's Code of Conduct for Councillors in Part 5 of this Constitution.

#### **Cabinet meetings**

- 28.5 The Cabinet shall meet at Muriel Matters House, Breeds Place, Hastings, TN34 3UY, or another location to be agreed by the Leader.

Cabinet meetings will be held in public, in accordance with the Council's principles of openness in decision making set out in Article 12 of this

Constitution, Part 2. The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

## **Quorum**

28.6 The quorum of the Cabinet will be three.

## **The Conduct of Cabinet Meetings**

### **Chair**

28.7 If present, the Leader will chair the meeting. In his/her absence, the Deputy Leader will chair the meeting. In the absence of the Leader and the Deputy Leader a member appointed to do so by those present shall chair the meeting.

### **Attendance**

28.8 These details are set out in the Access to Information Rules in Part 4 of this Constitution. Meetings are usually open to the public. A Councillor (who is not a member of Cabinet) may speak at meetings of the Cabinet where a decision affects that Councillor's ward. Petitioners also have an opportunity to address Cabinet where the subject of the petition relates to a Cabinet function. Councillors who have proposed a motion on notice which has been referred to Cabinet, may address Cabinet on their motion. The seconder of the motion may also speak at Cabinet.

### **Cabinet business**

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

- i. consideration of the minutes of the last meeting;
- ii. declarations of interest, if any;
- iii. matters referred to Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv. consideration of reports from the Overview and Scrutiny Committee; and
- v. matters set out in the agenda for the meeting, 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.

### **Items for the Cabinet agenda**

28.10 a. Agenda items for meetings of Cabinet will be agreed by the Leader of the



Council and the Managing Director or, in his/her absence her nominee,. The advice of the Council's Monitoring Officer and Chief Finance Officer will also be relevant in considering what items should be put on the agenda by the Chief Legal Officer.

b. The Chief Legal Officer will make sure that an item is placed on the agenda of the next appropriate meeting of Cabinet where the Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by Cabinet.

c. The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Legal Officer to call such a meeting in pursuance of their statutory duties.

28.11 The conduct of Cabinet meetings is at the discretion of the Chair and the following Council procedure rules apply: 9, 10, 12.11, 16.1, 16.3, 16.6, 16.7, 16.8, 16.9, 16.10, 18, 19, 20, 21, 22.3-5, 23 and 24.

## **29. Overview and Scrutiny Procedure Rules**

### **Arrangements for Overview and Scrutiny Committee**

29.1

- a. The Council will have one Overview and Scrutiny Committee: It will perform all overview and scrutiny functions on behalf of the Council.
- b. The terms of reference of the Overview and Scrutiny Committee will be:
  - i. the performance of all overview and scrutiny functions on behalf of the Council relating to the service areas specified in Article 6 (The Constitution, Part 2);
  - ii. To agree an annual overview and scrutiny work programme for the Overview and Scrutiny Committee in consultation with the Managing Director and Chief Legal Officer;
  - iii. To ensure that referrals from Overview and Scrutiny Committee to the Cabinet, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
  - iv. in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.
  - v. To receive requests from the Cabinet and/or the Full Council for reports from Overview and Scrutiny Committee.
  - vi. To call in decisions of the Cabinet, made but not implemented, where those decisions are within the scope of the Terms of Reference of the Overview and Scrutiny Committee.

- vii. To review the performance of the Council's departments in delivering services which are relevant to the work of the Overview and Scrutiny Committee.
- viii. To consider Scrutiny Reviews and make recommendations to the Cabinet and/or Council
- ix. To appoint elected Members to the Review Groups.
- x. The Overview and Scrutiny Committee is the Council's crime and disorder committee for the purposes of Section 19 Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.
- xi. The committee can exercise its function in relation to the Charity Committee, a committee of the Cabinet.

### **Membership of Overview and Scrutiny Committee**

- 29.2 There will be eleven members on the Overview and Scrutiny Committee. All Councillors except members of the Cabinet, the Mayor and Deputy Mayor may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

All members appointed to Overview and Scrutiny Committee must commit to be trained in order to perform the specialist role required.

### **Co-optees**

- 29.3 The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

The Hastings and St Leonards Museum Association may appoint persons who are for the time being members of the Association to attend any meeting of an Overview and Scrutiny Committee at which the management of the Hastings Museum Collection is the subject of consideration. These members will be entitled to vote and to speak at the meeting on any question relating to the management of the Collection. The number appointed may be up to 40% of the size of the original Overview and Scrutiny Committee. (These members may not speak, other than at the invitation of the committee chair, or vote on any question other than one relating to the management of the Collection). Attendance by members of the Association at the Overview and Scrutiny Committee will not affect the continuing role of the Museums Committee.

(Reference: Statutory Instrument 2000 No. 2853)

### **Meetings of the Overview and Scrutiny Committee**

- 29.4 There shall be four formal regular public meetings of the Overview and Scrutiny Committee in each year.

There will also be up to five reserve dates for the committee in each year.

These reserve dates are for work on policy development discussions, service reviews and training. If required, any of these reserve dates may be used as formal public meetings to deal with the call-in of a Cabinet decision under Rule 26.20 of this part of the constitution.

The decision to use a reserve date as a formal meeting must be taken by the Chair of the Overview and Scrutiny Committee, or by request from any three members of the committee or by the Chief Legal Officer if he/she considers it necessary.

## **Quorum**

- 29.5 The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **The Chair of Overview and Scrutiny Committee meetings**

- 29.6 The Council will appoint the Chair and Vice Chair of the Overview and Scrutiny Committee. Chair and Vice Chair may be minority party members. The rules of political balance will apply to these posts.

## **Work programme**

- 29.7 Shortly after Annual Council there will be an annual public meeting of the Overview and Scrutiny Committee to set a work programme for the overview and scrutiny function for the municipal year and to review the results of the previous year's work programme.

The Overview and Scrutiny Committee will be responsible for setting their 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.

## **Agenda items**

- 29.8 Any member of the Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Legal Officer that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Chief Legal Officer will ensure that it is included on the next available agenda.

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

The Chair of a Best Value Project Group can refer that Best Value Review back to the Overview and Scrutiny Committee for further consideration at any point in the Review.

## **Policy review and development**

29.9

- a. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration. The Cabinet is required to meet reasonable requests for funding. Funding should be used for specific activities in support of the functions outlined in the Terms of reference for the Overview and Scrutiny Committee.

## **Reports from the Overview and Scrutiny Committee**

29.10

- a. Once it has formed recommendations on proposals, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Cabinet if it is a Cabinet matter. If it is a matter for Council then the Cabinet will be invited to comment before the report goes before the Council.
- b. If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- c. Where the final outcome of a Best Value Review is reported to the Overview and Scrutiny Committee, the Director of that service may produce an Officer response for consideration by Members.
- d. The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting.

## **Forward Plan**

29.11 The Overview and Scrutiny Committee will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation.

## **Rights of Overview and Scrutiny Committee members to documents**

29.12

- b. In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice

of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

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

## **Councillors and Officers giving account**

29.13

- a. The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet or the Managing Director to attend before it to explain in relation to matters within his / her remit:
  - i. any particular decision or series of decisions;
  - ii. the extent to which the actions taken implement Council policy; and/or
  - iii. their performanceand it is the duty of those persons to attend if so required.
- b. Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the chair of that committee will inform the Chief Legal Officer. The Chief Legal Officer shall inform the Councillor or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that report.
- c. Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee, shall in consultation with the Councillor or Officer, arrange an alternative date for attendance or for an alternative Officer to attend.

## **Attendance by others**

- 29.14 The Overview and Scrutiny Committee may invite people other than those people referred to in Rule 29.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and officers in other parts of the public sector and shall invite such people to attend. Attendance cannot be made compulsory.

At each programmed meeting of the Overview and Scrutiny Committee, the appropriate Cabinet Members may be questioned by members of that Committee on key issues and respond to questions on those issues. If any members of that Committee wish to question a Cabinet Member on a particular issue, it may be helpful to provide the question in advance.

For the purposes of completing service reviews and policy development, any Councillor may be invited by the Chair of the Overview and Scrutiny to participate, although all decisions and reports will be the responsibility of the members appointed to the Overview and Scrutiny Committee by Annual Council.

## Call-in

- 29.15 Call-in should only be used in exceptional circumstances.
- a. When a decision is made by the Cabinet, a committee of the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale.
  - b. 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 three working days after the publication of the decision, unless the Overview and Scrutiny Committee objects to it and calls it in.
  - c. During that period, the Chief Legal Officer shall call-in a decision for scrutiny by the committee if so requested by the chair or any two members of the relevant committee, and shall then notify the decision-taker of the call-in. The meeting will be held within eight working days, where possible after consultation with the chair of the committee.
  - d. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. On receipt of the response from the Overview and Scrutiny Committee the Cabinet or Council may decide to proceed with the original decision or make an amended decision.
  - e. If, following an objection to the decision, the Overview and Scrutiny Committee does not meet within eight working days of the decision to call-in or does meet but does not refer the matter back to the Cabinet, the decision shall take effect on the expiry of the period, or the date of the overview and scrutiny meeting, whichever is the earlier.
  - f. If the matter was 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 a Cabinet 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

Cabinet, together with the Council's views on the decision. The Cabinet shall choose whether to amend the decision or not before reaching a final decision and implementing it.

- g. If the Council does not meet, or if it does but does not refer the decision back to the Cabinet, 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.

## **Exceptions**

In order to ensure that call-in is not abused, nor causes unreasonable delay, a written request signed by the Chair or any two members of the Overview and Scrutiny Committee is needed for a decision to be called in. The notice shall specify which part or parts of the decision is/are called in and the reason why it/they should be referred to the committee for consideration.

## **Call-In and Urgency**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

## **The Party Whip**

29.16 The Party Whip is defined here as any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner. Government guidance says that the party whip should not apply on Overview and Scrutiny Committee.

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

29.17

- a. The Overview and Scrutiny Committee shall consider the following business:
  - i. minutes of the last meeting;
  - ii. declarations of interest (including whipping declarations);
  - iii. consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - iv. responses of the Cabinet to reports of the Overview and Scrutiny Committee;
  - v. the business otherwise set out on the agenda for the meeting.
- b. Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to

attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- i. that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii. that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - iii. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- c. Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **Matters within the remit of Overview and Scrutiny**

### **Councillor Call for Action (CCFA)**

29.18 Ward Councillors have the power to request a debate and discussion at the Overview and Scrutiny Committee on the subject of neighbourhood concern. The powers are limited to single issues affecting the Councillor's ward and are there as a longstop when all other attempts at a resolution have failed. The matter must be a local government matter for which the Overview and Scrutiny Committee has a responsibility, relate to the Councillor's ward and not be excluded.

Excluded matters are:

- a. matters relating to a planning or licensing decision;
- b. a matter relating to an individual or entity in respect of which that individual or entity has recourse to a right of appeal conferred by legislation;
- c. any matter which is vexatious, discriminatory or unreasonable.

29.19 The process for the consideration of requests is that the ward Councillor submits the request by e-mail to [democraticservices@hastings.gov.uk](mailto:democraticservices@hastings.gov.uk). The Ward Councillor must specify the exact nature of the issue, what steps have already been taken to resolve it, how the Overview and Scrutiny Committee can assist and what a successful resolution might be. Relevant Officers would be requested to comment before consideration of the request by the Chair and Vice-Chair at an agenda planning meeting. The agenda planning meeting would consider whether the matter was appropriate for reference to the Overview and Scrutiny Committee. Having regard to the criteria and exclusions set out in Rule 29.18 where it is decided not to be appropriate to refer the matter to the agenda planning meeting reasons for refusal shall be provided in writing.

29.20 At a meeting of the Overview and Scrutiny Committee to consider the matter, the ward Councillor is entitled to address the Committee to present the call for action. Relevant Portfolio Holders, Officers and partner organisations, where appropriate, will be invited to attend and contribute. The Committee will explore



the potential options for resolution and decide on their recommendation for certain action. The Committee might consider any delegated decision making powers the ward Councillor may have and representations from the ward Councillor on why it would be appropriate for the Committee to exercise its powers as Overview and Scrutiny Committee. The Committee will direct its recommendation to the Cabinet or the relevant committee of the Council, or relevant Assistant Director where there is a delegation to officers. The Cabinet, committee, or relevant Assistant Director, in question, is required to report back to the Overview and Scrutiny Committee on actions taken as a result of the reference or the reasons for not taking action. If it decides not to take any action, the Committee shall notify the Councillor of its decision and the reasons for the decision.

29.21 Where the Committee makes recommendations to the Council it must provide a copy of the report to:

- a. the Councillor who referred the matter; and
- b. such of the responsible authorities and co-operating persons and bodies as it shall think appropriate.

When notifying those authorities, persons or bodies of the report recommendations the Committee shall inform them that they are required:

- a. to consider the report and recommendations;
- b. respond indicating what action is proposed; and
- c. have regard to the report or recommendations in exercising their functions.

## **30. Officer Employment Procedure Rules**

### **Introduction**

30.1 These rules are intended to give effect to the provisions of the Local Authorities (Standing Orders)(England) Regulations 2001, as amended, and will form the standing orders prescribed regarding employment matters. These rules take effect subject to the provisions of those Regulations.

### **Interpretation**

30.2 For the purposes of these rules the following meaning apply:-

“Head of Paid Service” means the Managing Director

30.3 “Chief Officer” means the Managing Director.

### **Recruitment and appointment**

30.4

- a. Declarations
  - i. The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother,

- sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- ii. No candidate related to a Councillor or an Officer will be appointed without the authority of the relevant chief officer or an Officer nominated by him/her.
- b. Seeking support for appointment.
- i. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - ii. No Councillor will seek support for any person for any appointment with the Council.

## **Recruitment of Head of Paid Service and Chief Officers**

- 30.5 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
- a. draw up a statement specifying:
    - i. the duties of the Officer concerned; and
    - ii. any qualifications or qualities to be sought in the person to be appointed;
  - b. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - c. make arrangements for a copy of the statement mentioned in Rule 30.4a to be sent to any person on request.

## **Appointment of Head of Paid Service**

- 30.6
- a. The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee of the Council. That Committee must include at least one member of the Cabinet.
  - b. The Full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

## **Appointment of Chief Officers**

- 30.7
- a. The Employment Committee of the Council will appoint Chief Officers of the Council. It must be advised by the Head of Paid Service.
  - b. The Committee will not confirm such an appointment if a well-founded objection has been made by any member of the Cabinet or the Head of Paid Service until it has heard the objection.

## **Other appointments**

## **Officers other than Assistants to Political Groups**

30.8

- a. Appointment of Officers other than the Head of Paid Service or Chief Officers is the responsibility of the Head of Paid Service or his/her nominee

## **Assistants to Political Groups**

- b. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group

## **Disciplinary action**

30.9

- (i) Where an allegation is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Statutory Officers) relating to conduct or capability or some other substantial issue that requires investigation, the matter will be considered by the Employment Committee
- (ii) The Employment Committee will consider and action suspension, where appropriate to allow for an investigation. Any suspension must not last longer than two months, unless an extension is recommended by a suitably qualified and independent investigator
- (iii) For the purposes of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Employment Committee will operate as the Panel (including two or more independent persons who have accepted the invitation)
- (iv) The Employment Committee will include two or more independent persons who accept the invitation in the following priority order:
  - a) A relevant independent person who has been appointed by the Council and who is a local government elector;
  - b) Any other independent person who has been appointed by the Council;and
  - c) An independent person who has been appointed by another council or councils.]
- (v) At the relevant time, the Employment Committee will consider whether potential disciplinary/dismissal issues require investigation and whether the relevant Officer should be suspended. In this regard the authority must ensure that the Panel is in place at least 20 working days before the meeting at which it considers whether to approve a proposal to dismiss.
- (vi) The Employment Committee will inform the relevant Officers of the allegations, and allow him/her to respond in writing and in person. The Employment Committee will then decide whether no further action is required or that the matter requires an investigation by a suitably qualified

and independent person and the Committee will use its best endeavours to agree this person with the officer

- (vii) The Employment Committee will review the results of the investigation to consider what action if any is appropriate, after hearing the views of the relevant Officer and the independent persons, and report its recommendations. The independent persons do not have a vote on whether the relevant person should be dismissed. Full Council must consider whether or not to approve such dismissal.

## **Dismissal**

- (viii) Where dismissal is recommended, the Employment Committee will provide advice, views or recommendations to Full Council for the authority to vote on whether it approves the proposal to dismiss. The relevant Officer will be provided with all relevant papers and documents in advance of the meeting and allowed to make their representations. Written representations may also be given by the relevant Officer in advance of the meeting.
- (ix) No notice of dismissal shall be given until the matter has been referred to the Full Council for approval.
- (x) The Council's disciplinary, capability and related procedures, as adapted from time to time, allow a right to appeal for all Officers to Members in respect of dismissals. Such appeals will be heard by the Employment Appeals Committee. Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, Chief Finance Officer, Monitoring Officer and Chief Officers except where such involvement is necessary to assist any investigation or inquiry being conducted by a Senior Officer or an independent person into alleged misconduct.

In relation to any further appeal for statutory officers, as Full Council has approved the dismissal, there is no one in the authority who has the power to overturn the dismissal decision. In this respect and as set out above, the relevant Officer will have the opportunity to make representations to the Employment Appeals Committee before any dismissal recommendation is made at Full Council.

## **31. Procedural Appendices**

Minute's Silence at Council Meetings

Honorary Freedom of the Borough

### **Appendix 1**

#### **Protocol – Minute's Silence at Council Meetings**

A minutes silence will be held at the next meeting of Full Council following the death of:

- a. A current member of the Council or one who left office within the preceding 4 years.
- b. Former Mayor of the Borough.
- c. Former MP for Hastings and Rye
- d. Member of the Order of 1066
- e. Freeman/woman of Borough
- f. The Monarch or a significant member of the Royal Family.
- g. Any other person who has made a significant contribution to the Borough and its residents, or to the UK as determined by the Mayor in consultation with leaders of all political groups represented on the Council.
- h. A minute's silence will be held at the next meeting of Full Council following a local, national or international disaster, as determined by the Mayor in consultation with leaders of all political groups represented on the Council.

**Where any of the above has been convicted of a criminal penalty, or brought his or herself or office into disrepute the Mayor in consultation with leaders of all political groups represented on the Council may decide to withhold this tribute**

## Appendix 2

### HONORARY FREEDOM OF THE BOROUGH

#### Introduction

1. The Borough Council has power to admit individuals as Freemen of the Borough and this is set out in Section 249(5) Local Government Act 1972:-

“the Council of a ...district having the status of a ...borough ...may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the...borough....persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the...borough, but the admission of a person to be an honorary freeman shall not confer on him any such rights as are referred to in Section 248(4) above.”

2. The legislation goes on to provide that the Council may spend “such reasonable sum as they think fit for the purposes of presenting an address or casket containing an address to a person upon whom they have conferred the title...”.
3. The title is entirely honorary – there are no rights or privileges arising from the award - and the Council’s powers to spend are strictly limited by the section.

#### Motion to bestow the Freedom of the Borough

4. In most cases the consideration of the Council admitting a person to the Freedom of the Borough will result from a motion to Council.
5. Under the Constitution a motion, which is required to be considered by Council, would normally be included on the agenda of the next ordinary meeting of the Council. The Act, however, refers to meeting of the Council specially convened for the purpose.
6. The honour has been bestowed by the Borough on just six occasions since 1972. The individuals honoured and the reasons why the Council considered them as persons of distinction or persons who have, in the opinion of the Council, rendered eminent services to the Borough are as follows:-

1978	William Henry Dyer. For services to the town’s old people and encouraging interest in local history.
1986	Victor James Pain. For 60 years work for the Borough of Hastings and as Leader of the Council.
2006	Pam Brown. OBE. In recognition of outstanding service to the Borough and its citizens.
2008	47 Royal Artillery Regiment. In recognition of the great debt owed to the armed forces, serving at home and abroad.
2011	Michael Foster. Member of Parliament for Hastings and Rye.
2016	Maureen Charlesworth. For services as a local Councillor and to voluntary organisations in the Town.

7. The admission to the Freedom of the Borough is an honour that is not to be given lightly, as witnessed by the small number of admissions to the freedom since the introduction of

the power and the need for a two-thirds majority of the Council voting thereon at the meeting. Whilst there has been one admission to a group in 2008, the Councillors considering this procedure note considered that the freedom was more appropriate as a means of honouring individuals of distinction.

8. It is important that, if a motion to admit to the freedom is to be considered, that all members will be in possession of sufficient facts in order to make a decision as to whether the honour should be given. Furthermore, there may be instances where there are strongly held views for and against and that these need to be addressed as far as possible in advance of an extraordinary Council meeting called for the purpose. So far as possible Council would want to be meeting with the clear consensus that the person of distinction is to be honoured and not humiliated by the proceedings. A unanimous decision is desirable, but the absence of unanimity cannot prevent the motion coming forward for consideration by Council.

### **Criteria for admission to Freedom of the Borough**

9. It is in the interests of transparency and public confidence that the Council adopts clear criteria for admission to the freedom of the Borough. It is suggested that one or more of the following are used at the criteria for the award:-

- evidence of exceptional service to the Borough Council whether as a Councillor or an officer;
- evidence of exceptional charitable service to the Borough, whether a national or locally based charity;
- evidence of exceptional voluntary service to the Borough or any part of it or community within it;
- evidence of exceptional commercial service to the Borough;
- evidence of exceptional service to the public services working for the residents and businesses of the Borough;
- evidence of exceptional service to the Borough or the nation

### **Procedure on receipt of a motion to admit to the Freedom of the Borough**

10. On receipt of the motion, the Chief Legal Officer will ask the proposer to provide full reasons why the person is considered:
  - a person of distinction; or
  - a person who has rendered eminent services to the Borough
11. When in possession of sufficient information, the Chief Legal Officer will convene a panel of the leaders of the political groups on the Council or their nominees, with relevant officers (the Freedom Panel) to consider:
  - whether they have sufficient information on which to form a view and, if not, to instruct officers to seek further information;
  - once satisfied that they have adequate information, whether there is sufficient support for the matter to go to full Council for decision.
12. In the event that the Freedom panel concludes that it is unlikely that the motion would

receive sufficient support, the Chief Legal Officer will advise the proposer of the motion of this conclusion and the reasons for reaching that conclusion. The Councillor would then be given the opportunity to withdraw the motion, though the Councillor would still be entitled to have his/her motion considered by Council.

13. Should the Freedom Panel conclude that there would be likely to be a two thirds majority voting in favour of the motion, the Chief Legal Officer will convene an extraordinary meeting of the Council specifically for the consideration of the one item of business. The timing of the meeting will be such as, so far as it practicable, to meet the availability of the individual concerned to attend and to concord with the Council's diary commitments.
14. The subject of the motion will be invited to attend the extraordinary meeting of Council where the motion is to be considered.
15. At the extraordinary meeting of Council, there will be only the one item of business and Officers will present a report setting out the matters considered by the Panel and the recommendation of the Panel to Council to approve the motion.
16. The Mayor will take a vote on the motion and a two-thirds majority of those present and voting is required.

(Note: abstentions do not count as a vote and the required majority will be deduced from the number of Councillors actually voting on the item).

Then the Mayor will then immediately close the meeting.

17. The ceremonial award of the Freedom with scroll or casket will take place at Annual Council as part of the incoming Mayor's announcements and the new Freeman/woman would be given the opportunity to make a short speech (5 minutes) in response.