

# Part 5: Policy and Procedure Rules

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## 5A Council Procedure Rules

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### Council Procedure Rules

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## **RULE I: Introduction**

### **1.1 Interpretation**

In these Council Procedure Rules the interpretation of words shall be in accordance with the definitions set out in the Glossary of Terms within the Constitution.

### **1.2 General**

A copy of these Council Procedure Rules shall be made available by the Monitoring Officer to every Member upon acceptance of Office. This may include access to an electronic copy of the rules. A copy is also available on the Council's website.

Any proposal to permanently alter these Council Procedure Rules (other than minor or consequential amendments made by the Monitoring Officer, or in accordance with delegated authority of the Council) other than a motion to implement a recommendation of the Constitution Working Group, shall be in the form of a motion instructing the Constitution Working Group to report to Council upon such proposals. Any such motion, upon being seconded, shall be put to the vote without discussion. The Constitution Working Group shall report to the next Ordinary Council Meeting upon any matter referred to it under this Council Procedure Rule, unless the motion specifies an alternative time frame.

These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.

Where any step or action under these Council Procedure Rules is prescribed to be performed by a Designated Officer, that Officer may nominate or authorise another Officer in his/her place.

In implementing and effecting these Council Procedure Rules, the Council will comply with its statutory obligations relating to the use, recording and retention of any personal data that it receives.

### **1.3 Notices**

Any Notice required under these Council Procedure Rules may be given to the Monitoring Officer by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The listing of names as signatures on such documents shall be deemed to be signatures.

### **1.4 Person Presiding**

Any ruling of the Person Presiding at any meeting on any point of order, interpretation of these Council procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. However, in reaching their decision, the person presiding must give due consideration to the advice of the Monitoring Officer, or their representative.

## **RULE 2: Annual Meeting of Council**

### **2.1 Date**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 calendar days of the usual retirement date of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

Subject to these requirements, the meeting will be held at such place, on such date, and at such time, as may be fixed by the Council, subject to Council Procedure Rule 6 below.

### **2.2 Business**

The annual meeting will conduct the following business in the following order:

- (i) Elect a Councillor, other than an Executive Member, to be the Chair of Council;
- (ii) Appoint a Councillor, other than an Executive Member, to be the Vice-Chair of Council;
- (iii) Receive apologies for absences;
- (iv) Receive any declarations of interests;
- (v) Approve the minutes of the last meeting;
- (vi) Receive any announcements from the Chair, Head of Paid Service, Chief Finance Officer and/or Monitoring Officer;
- (vii) Give a vote of thanks to the retiring Chair and Vice-Chair;
- (viii) Elect the Leader of the Council, if the term of office of the current Leader has come to an end;
- (ix) Receive a report from the Leader on the appointment of the Deputy Leader, Executive Members, Joint Executive Arrangements and the Executive Scheme of Delegations;
- (x) In an election year, receive the return of the Returning Officer;
- (xi) Establish such Committees as the Council considers appropriate to deal with matters which are neither reserved to full Council nor are Executive functions, including at least one Overview and Scrutiny Committee and a Sub-Committee to consider Standards and Ethics;
- (xii) Appoint Councillors to Committees, including Substitute Members;
- (xiii) Adopt the Council's Constitution and agree the Scheme of Officer Delegations, other than those relating to Executive functions;
- (xiv) Approve a programme of Ordinary Meetings of the Council for the year, if not already agreed;
- (xv) Consider any business set out in the notice convening the meeting; and
- (xvi) Consider any matters deemed urgent by the Chair, after having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

### **2.3 Selection of Councillors on Committees**

#### **2.3.1 Election of the Chair**

At the annual meeting, the Council will elect a Chair of the Council and appoint a Vice-Chair. The current Chair will preside over the election of the successor, unless they are ineligible to do so, in which case the current Vice-Chair will do so. If both the Chair and Vice-Chair are ineligible to do so the Monitoring Officer will preside for the first agenda item to Elect the Chair.

### 2.3.2 Committees, allocation to seats to political groups and appointments

The Council at its annual meeting will also decide upon which Committees to establish for the municipal year and the size of those Committees. Having received a report from the Monitoring Officer, it will decide the allocation of seats to political groups in accordance with the political balance rules. It will then receive nominations of Councillors to serve on each Committee and appoint to those Committees, in accordance with the wishes of the political groups and subject to any other statutory requirements, except where appointment to those bodies has been delegated by the Council or is exercisable by the Leader or the Executive.

### 2.3.3 Co-opted Members

Where appropriate, the Council will also appoint non-voting co-opted members to Committees, including confirming the appointment of the statutory role of the Independent Person(s) for the municipal year.

### 2.3.4 Recommendations from Standards Sub Committee

In making appointments of Councillors to Committees, the Council will have regard to any recommendations from the Standards Sub Committee as to the appropriateness or otherwise of the appointment of any Councillor to a particular Committee.

### 2.3.5 Training

In considering nominations for appointments to the Development Control Committee, Licensing Committee and Audit & Governance Committee, in accordance with the Committees and Political Groups Regulations, Group Leaders shall take into account the requirements for training referred to in [Article 5 in Part 2 of the Constitution](#).

### 2.3.6 Sub Committees

Appointments to Sub-Committees are made by the 'parent' Committee, not the Council. Any appointments to Sub-Committees, may only be from membership of the 'parent' Committee.

### 2.3.7 Chairs and Vice-Chairs of Committees

Chairs and Vice-Chairs of Committees are appointed by those Committees. Chairs and Vice-Chairs of Sub-Committees are appointed by those Sub-Committees.

### 2.3.8 Substitute Members

As well as allocating seats on Committees, the Council will appoint substitute members to those Committees.

Subject to the listed exceptions, all Members of each political group not appointed to a particular Committee or Sub-Committee, shall be named as substitute Members for the Member or Members of that group who have been appointed to that Committee or Sub-Committee, subject to provision that substitute Members for Sub-Committees are restricted to Members of the 'parent' Committee (other than in respect of the Area Development Control Sub-Committees).

The exceptions are that:

- No member of the Executive may be appointed as a substitute Member in respect of an Overview and Scrutiny Committee;
- Substitutes on Committees subject to the political balance regulations may only be substituted for Members of the same political party except where a substitute is necessary for the Committee to operate effectively, and the political group does not have sufficient membership to appoint a substitute, or the substitute is not able to attend. In these circumstances the Monitoring Officer may, having regard to the rules of political proportionality, and in consultation with the Member who is unable to attend, invite any other Member who has been designated as a substitute for that Committee, to attend;
- For meetings of the Area Development Control Sub-Committees, the rules in relation to political balance apply. However, Members of the Development Control Committee, on making appointments to the Area Sub-Committees, may indicate that they don't wish to take up their allocation of seats in accordance with the political balance rules. If all members of the Development Control Committee indicate their acceptance, that Committee may agree to appoint to their Sub-Committees, those Members who represent a Ward or part of a Ward of the District which is situated within the area of the relevant Area Sub-Committee. Any Member of the Council, with the requisite training, is permitted to substitute for a Member on the Area Development Control Sub-Committee, in accordance with the wishes of the Member being substituted;
- No member may be appointed as a substitute member of the Development Control Committee or an Area Planning Sub-Committee who does not meet the requirements for training referred to in Article 5 in Part 2 of the Constitution
- No member may be appointed as a substitute member of the Licensing Committee or Sub-Committee who does not meet the requirements for training referred to in Article 5 in Part 2 of the Constitution;
- No member may be appointed as a substitute member of the Standards Sub-Committee who does not meet the requirements for training referred to in Article 5 in Part 2 of the Constitution;
- No Member of the Executive may be substituted.

Any Member of a Committee or Sub-Committee who is unable to attend a meeting of that Committee or Sub-Committee may give notice to Democratic Services that for the duration of that meeting they will be substituted by another Member. They should do so, in advance of the commencement of the meeting, by email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The names of any substitute Members will be notified to the Committee or Sub-Committee by the Chair of the meeting under the item in the agenda dealing with apologies for absence. If the absence and appointment of substitute is notified to democratic services after the publication of the agenda, it is the responsibility of the Member to provide any relevant documents and information to the Member Substituting for them.

During a meeting substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not automatically exercise any special powers or duties exercisable by the Member they are replacing. For example, if they substitute for the Chair, they shall not automatically have the powers of the Chair, unless voted as Chair by that Committee.

Substitute Members may attend meetings in that capacity only:

- to take the place of the ordinary Member for whom they are the designated substitute Member;
- where the ordinary Member will be absent for the whole of the meeting; and
- after Democratic Services have been notified of the change.

## **2.4 Vacancies on Committees and Sub-Committees**

Any vacancies which arise on Committees and Sub-Committees, for any reason, between annual meetings of the Council shall be appointed to by the Monitoring Officer in accordance with the wishes of the political group to which the vacant seat is allocated. All Members of the Council will be asked to ratify and note the appointment at the next ordinary Council meeting.

## **RULE 3: Ordinary Meetings**

### **3.1 Date**

Ordinary meetings of the Council will take place in accordance with a programme approved by the Council and will be held at such places, on such dates and at such times as may be fixed by the Council, in accordance with Council Procedure Rule 6.

### **3.2 Business**

Ordinary meetings will:

- (i) Elect a person, who is not a Member of the Executive, to preside if the Chair and Vice-Chair are not present;
- (ii) Receive apologies for absence;
- (iii) Receive any declarations of interests from Members;
- (iv) Approve the minutes of the last meeting;
- (v) Deal with any business expressly required by statute to be carried out;
- (vi) Receive any announcements from the Chair, Leader, Members of the Executive, Head of Paid Service, Chief Financial Officer or Monitoring Officer;
- (vii) Receive any announcements from the Monitoring Officers as to changes to appointment of Members on Committees, for the Council to ratify and note;
- (viii) Receive any questions from members of the public in accordance with Council Procedure Rule 11;
- (ix) Receive any Petitions and consider in accordance with the Council's Petition Scheme;
- (x) Deal with any business remaining from the last Council meeting;
- (xi) Receive reports, and consider any recommendations from the Council's Committees and the Executive to the Council;
- (xii) Receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xiii) Receive and consider reports from Officers;

- (xiv) Receive questions from Members in accordance with Council Procedure Rule 12;
- (xv) Consider motions of which notice has been given in accordance with Rule 13 of these procedures;
- (xvi) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate; and
- (xvii) Consider any matters deemed urgent by the Chair, after having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

The order of business of a meeting of the Council may be varied by the Chair or by the meeting in accordance with Council Procedure Rule 8.

### **3.3 Council Budget Meeting**

These Council Procedure Rules are supplemented by the Budget Procedure Rules at part 5J of the constitution. Where any conflict arises between the two sets of procedural rules, the Budget Procedure Rules will prevail for the annual Budget setting meeting.

## **RULE 4: Extraordinary Meetings of Council**

### **4.1 Calling an Extraordinary Meeting**

Those listed below may require the Chief Executive to summons Members to Council meetings in addition to Ordinary meetings:

- the Council by resolution;
- the Chair of the Council;
- the Leader of the Council;
- the Head of Paid Service;
- the Monitoring Officer;
- the Chief Financial Officer; and

Any 5 members of the Council, if they have signed a requisition presented to the Chair who has refused or failed to call a meeting within 7 calendar days of presentation of the requisition. Any such requisition will be deemed to have been presented to the Chair if emailed to the Monitoring Officer at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk).

### **4.2 Business**

Extraordinary Meetings will:

- i) Elect a Councillor, who is not a Member of the Executive, to preside if both the Chair and Vice-Chair are not present;
- ii) Receive any apologies for absence;
- iii) Receive any declarations of interests;
- iv) In accordance with Council Procedure Rule 11 receive any questions from the registered electors;
- v) Consider the single item of business specified in the summons to the meeting (a single item may be made up of more than one part provided that they all relate to a single subject);

- vi) Consider any business that the Chair deems to be urgent, having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

## **RULE 5: Special Meetings of Council**

A Special Meeting of the Council is one that is required by statute or by the Council and shall only consider a single substantive item of business. The meeting shall be convened for the specific statutory purpose which shall be contained in the summons. No other business may be transacted at that meeting.

### **5.1 Calling a Special Meeting**

Those listed below may require the Chief Executive to summons Members to a Special Meeting of Council:

- The Council by resolution;
- The Chair; and
- The Monitoring Officer.

### **5.2 Business**

Special Meetings will:

- i) Elect a Councillor, who is not a Member of the Executive, to preside if the Chair and Vice-Chair are not present;
- ii) Receive apologies for absence;
- iii) Receive any declarations of interests;
- iv) Receive questions from members of the public in accordance with Council Procedure Rule 11, relating to the specific single item of business on the agenda; and
- v) Consider the specific item of business for which the meeting has been convened.

## **RULE 6: Time and Location of Meetings**

An annual calendar of meetings will be agreed by Council and will detail the dates of all meetings.

### **6.1 Council**

Both the annual and ordinary meetings of Council will commence at 2pm and be held at the Council Chamber at Woodgreen, unless:

- The Council resolves otherwise; or
- For some practical reason this is not possible or appropriate, in which case the meeting will be held at another location, to be decided by the Chief Executive, after consulting the Chair and Leader of the Council.

If an emergency occurs, the Chief Executive may, after consulting with such of the Chair, the Leader of the Council and Leaders of the Political Groups as may conveniently be contacted, vary any arrangement agreed by the Council for the holding of Council meetings.



No meeting of the Council shall, except in an emergency, be held on a Friday evening, Saturday, Sunday, Bank Holiday or day on which the Council shall have granted a general holiday for its employees.

The time and location of Extraordinary and Special Council meetings will be determined by the Chief Executive, in consultation with the Chair and Vice Chair, and will be notified to all Member on the summons to the meeting.

## **6.2 Committees**

The timing of meetings will be agreed by the respective Council Committees and Sub-Committees at their first meeting of the civic year. Such Council Committee meetings will usually be held at Woodgreen.

The timing and location of Executive meetings will be determined by the Leader, in consultation with the Monitoring Officer, and will be notified on the summons to meetings.

### **RULE 7: Notice of and Summons to Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules, by publishing the time and location of the meeting on the Council's website. Where the meeting is called by Members of the Council, the notice shall be signed by those Members and shall specify the purpose of the meeting.

At least five clear working days before the day of the meeting, the Chief Executive will send a summons or agenda, signed by or on behalf of him or her, to every Member of the Council, by electronic mail, by post or by leaving it at their usual place of residence. The summons or agenda will give the date, time and location of each meeting and specify the business to be transacted, and will be accompanied by relevant reports, or shall provide access to such reports electronically.

### **RULE 8: Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair. If it is necessary to choose a Member of the Council (who cannot be a Member of the Executive) to preside in the absence of the Chair and the Vice-Chair, the Monitoring Officer or their representative will preside and call for a motion that a Member of the Council take the Chair. If there is any debate on the motion then that Officer shall have all the powers of the Chair for the purposes of that debate.

The ruling of the Chair, having taken advice from the Monitoring Officer or their representative, as to the construction or application of any of these Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Where these rules apply to Committee and sub-Committee meetings, references to the Chair also include the Chair of Committees and sub-Committees.

The Chair of a Council or Committee meeting can ask the meeting to agree to a change in the order of business on an agenda, except for the first two items at an Annual Council meeting.

## **RULE 9: Quorum**

The quorum of a meeting of the Council will be one quarter of the whole number of Members of the Council.

The quorum of any meeting of a Committee or sub-Committee shall be:

- not less than one quarter of the total membership of the Committee or sub-Committee; and
- subject to a minimum of three

If at any time during a meeting the number of members in attendance falls below the quorum, the person presiding will declare that there is not a quorum present, and the meeting will stand adjourned for 15 minutes. If, after 15 minutes, the person presiding declares that there is still no quorum present, then the meeting will be adjourned and any remaining business considered at the next meeting.

The consideration of all business which is on the agenda of a meeting brought to an end in this way, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary, Extraordinary or Special, insofar as is allowed by law.

## **RULE 10: Duration of Meetings**

Where any meeting of the Council, a Committee or Sub-Committee, has lasted 3 hours, the person presiding will interrupt the meeting and any Member speaking shall stop speaking. The person presiding shall, without discussion, take a vote on whether or not the Members of the meeting wish it to continue.

Unless a majority of members present vote for the meeting to continue, then the person presiding shall, without further discussion, take a vote on the item under discussion and then the meeting shall stand adjourned. The remaining business will be considered at a time and date fixed by the Chair of the Council or Committee at that time, or, if they do not fix a time and date, at the next meeting of the Council or Committee.

If the majority of Members present vote to continue the meeting, then a further vote on whether or not to continue the meeting will take place on an hourly basis thereafter.

This Council Procedure Rule does not apply to meetings dealing with matters arising under the Licensing Act 2003 and the Gambling Act 2005, Committee meetings dealing with staff appointments or staff appeals and Standards Sub-Committee meetings dealing with code of conduct determinations.

## **RULE 11: Questions and Engagement By the Public**

### **11.1 Questions on Notice by the Public**

A member of the public, who is a registered elector in the District, may ask questions of the Chair of Council, any Member of the Executive or the Chair of any Committee, on any matter in relation to which the Council has powers or duties or which affects the District.

A member of the public is limited to asking one such question at any meeting of the Council, other than Annual Council. No more than one question can be asked on behalf of any organisation or body at any Council meeting.

Notice that the question is to be asked, together with a written copy of the question, must be provided to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), or by post, to be received no later than noon on the seventh working day before the day of the meeting.

No questions from the public will be allowed where the requisite notice has not been given.

## **11.2 Grounds for refusal of a Public Question**

The Monitoring Officer may reject a question if, in their opinion, it:

- Does not relate to a matter for which the Council has responsibility or does not affect the District or his residents, communities or businesses;
- Is Defamatory, frivolous, vexatious or offensive;
- It refers to legal proceedings taken or anticipated by or against the Council;
- It is substantially the same as a question which has been put to a meeting of Council in the previous 6 months;
- It requires the disclosure of confidential or exempt information; or
- It would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998 as amended.

## **11.3 Asking the Question and Responding**

Copies of all questions, save for those that have been rejected, will be included in the briefing document circulated to all Members of the Council, and made available to the public attending the meetings via the Council's website, at least one clear working day prior to the meeting.

The member of the public may attend in person to ask their question, as written, or in their absence, or where they prefer, the question may be read out by the Chair of the Council, or the Monitoring Officer or their representative.

Questions will be taken in the order in which they were received by Democratic Services, except that the Chair may group similar questions together.

The response will take the form of:

- A direct verbal 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 verbally, a written response within 3 clear working days, to be circulated to all Members of the Council.

The response will be recorded and incorporated into the minutes of the meeting.

## **11.4 Supplementary Questions**

The member of the public may ask a supplementary question, which must arise directly from the question itself or the response provided to the question. The Member may provide a verbal response or provide a written response to the supplementary question within 3 clear working days, to also be circulated to all Members of the Council.

No discussion will take place in respect of any question or supplementary question.

## **11.5 Time Limits**

There is no time limit for an individual question, but there shall be a maximum total of 15 minutes allowed for questions from members of the public. If the 15 minutes expires during a question or supplementary question, the Chair may allow the question to be heard and responded to, and any supplementary question also to be put and responded to. Where the 15 minutes is not used for this purpose, any remaining time may be used for Member questions in accordance with Rule 12.1.4.

Where a question cannot be responded to during public question time due to a lack of time, it will be dealt with by way of a written response within 3 clear working days, to also be circulated to all Members.

## **11.6 Referral to the Executive or a Committee**

In addition, any Member of the Council may move that a matter raised by a question, be referred to either the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.

This provision shall apply only at Council meetings.

## **11.7 Petitions**

Petitions, other than statutory petitions, shall be managed in accordance with the Council's Petition Scheme set out in Part 6E of the Constitution.

## **RULE 12: Questions by Members**

### **12.1 Questions on Notice by Members**

#### **12.1.1 Notice and Scope**

Provided that the Member has given written notice to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 12 noon on the seventh working day before the date of the meeting, at a Council meeting, a Member of the Council may ask:

- the Chair;
- a Member of the Executive;
- the Chair of any Committee;
- the Council's representative on any outside body

a question on any matter in relation to which the Council has powers or duties or which affects the District, (subject to Rule 12.2 below).

#### **12.1.2 Urgency**

Any Member of the Council may ask a question of the Chair or Leader of the Council where it relates to an urgent matter, which could not have been foreseen 7 working days before the meeting and cannot reasonably be left in abeyance until the next scheduled Council meeting, provided they have the consent of the Chair of the Council, and that notice and a written copy of the question have been provided to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by no later than 10.00am of the day of the meeting.

### 12.1.3 Scope

The Monitoring Officer may reject any such question if it relates to:

- A decision of the Development Control Committee or its Sub-Committees on a specific Planning application;
- A decision of the Standards Sub-Committee on a Standards determination;
- A decision of a Licensing Committee on a specific application, review or similar matter;
- A decision on a staffing appointment or appeal relating to an Individual;
- A matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period.

### 12.1.4 Asking and Responding to the Question

Every question put and answered shall be without discussion.

The question will be included in writing in a briefing document to all Members, published on the Council website, and circulated at least one clear working day prior to the Council meeting.

The person to whom a written question has been put may refer it to another Member for written response.

The response will be in writing. The written response will also be included in the briefing document and circulated to all Members, and published on the Council's website, at least one clear working day prior to the day of the meeting.

Where the desired information is in a publication of the Council or other published work, the written response may simply be a reference to that publication.

### 12.1.5 Supplementary Question

A Member submitting a question under this Council Procedure Rule may ask one supplementary question, without notice, of the Member to whom the first question was put, or of the Member who provided the written response. The supplementary question must arise directly out of the original question or the response to it. The Member may provide a verbal response or provide a written response to the supplementary question within 3 clear working days. Where a written response is provided, it should be circulated to all Members of the Council.

### 12.1.6 Referral to the Executive or a Committee

In addition, any Member may move that a matter raised by a question be referred to the Executive or a Committee. Once seconded, such a motion will be voted on without discussion.

### 12.1.7 Time Limits

Questions will be taken in the order in which notice was given, save that the Chair may group similar questions together.

There is no time limit for each individual question but 15 minutes shall be allowed in total for Member questions. If the 15 minutes expires during a question or supplementary question, the Chair may allow the question to be heard and responded to, and any supplementary question also to be put and responded to. 15 minutes is also allowed for public questions, and if this has not been used, the remainder of this time may be added to the 15 minutes allowed for Member Questions.

Where a supplementary question cannot be responded to during member question time due to a lack of time, it will be dealt with by way of a written response to be circulated to all Members within 3 clear working days.

#### 12.1.8 Record

Questions asked on notice at Council under this procedure rule will be recorded in the minutes, and published on the Council's website, as will any response provided.

This provision shall apply only at Council meetings.

### 12.2 Questions by Members Without Notice

A Member may ask a question, at a meeting of Council, without notice as follows:

- (i) A Member of the Council may ask the Leader or the Chair of a Committee any question on an item on the agenda when that item is being considered. Such questions should be raised prior to the item being moved or seconded;
- (ii) A Member of the Council may ask the Chair, Leader, Member of the Executive or the Head of Paid Service, Chief Financial Officer or Monitoring Officer, a question arising from an announcement made at the meeting;

## RULE 13: Motions on Notice

### 13.1 Notice

Except for motions which can be moved without notice under Council Procedure Rule 14, written notice of every motion, signed by the Member or Members of the Council giving notice, must be delivered to the Monitoring Officer, via email to [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), no later than noon on the seventh working day before the date of the meeting. An electronic signature will suffice. The Member or Members should ensure they obtain an acknowledgement of its receipt.

Motions will be dated and numbered and entered sequentially in a book which shall be open to public inspection.

### 13.2 Motion set out on agenda

Accepted motions of which notice has been given will be listed on the agenda, unless the Member or Members giving notice state, in writing, via email to the Monitoring Officer at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk), by 10am on the date of the meeting, that they propose to move it to a later meeting or withdraw it. All accepted motions shall be published on the Council's website.

Motions will be taken in the order in which they were received, subject to the requirement to rotate motions from each political group. Any motion from the largest political group will be taken first, followed by each other political group in order of size, followed by any motion from a member not part of a political group.

The maximum number of accepted notices to be presented at a Council meeting shall be as follows: 2 each from the 3 largest political groups; 1 each from any other political group; and 1 from any Member not belonging to a political group.

### **13.3 Scope**

Motions must be about matters for which the Council has powers or duties or which affect the District.

Any motion must be limited to 500 words.

A motion may be rejected by the Monitoring Officer, if in their opinion, the motion:

- Is not relevant either to some matter in relation to which the Council has powers or duties or it does not affect the District; or
- Is defamatory, frivolous, unlawful, vexatious or offensive; or
- Refers to legal proceedings taken or anticipated by or against the Council; or
- Is substantially the same as a motion which has been received and accepted in the previous 6 months; or
- Requires to disclosure of confidential or exempt information; or
- Is improper, out of order, or not relevant.

Where a motion is rejected by the Monitoring Officer, they shall return the Motion to the Member of the Council who gave notice of it, stating that it will not be inserted on the agenda, and providing reasons for that decision.

Where the Council is in the process of consulting with the public on a proposal, or responding to a formal consultation process, no notice of motion expressing support or objecting to the proposals shall be accepted.

### **13.4 Time limit**

There will be a total maximum time period for Motions on Notice of 60 minutes but no time limit for dealing with each motion.

### **13.5 Motion not proposed at Meeting**

If a motion set out in the agenda is not proposed either by a Member who gave notice of it or by some other Member acting on their behalf it shall, unless postponed by consent, shown by a majority vote of those present, of the Council, be treated as withdrawn and shall not be further moved without fresh notice. In accordance with Council procedure Rule 13.3 above this cannot be until a period of 6 months has expired.

### **13.6 Action on the Motion**

If the subject matter of any motion of which notice has been given falls within the remit of any Committee of the Council, or of the Executive, when it has been proposed and seconded it shall stand referred without discussion to that Committee or the Executive.

If the matter requires a decision of the Executive, the decision of the Executive shall be available to all Members via the minutes of the Executive meeting. If the matter stands referred to a Committee, the Council may decide whether it shall be decided by that Committee or whether action is to be taken by the Council on report of that Committee to a future Council meeting.

Notwithstanding the above, if the subject matter is to be determined by the Council and is not an Executive matter, the Chair may, if they consider it convenient and conducive to the conduct of business, allow it to be dealt with at the Council meeting at which it is brought forward.

### **13.7 Attendance at Meeting considering Motion**

If a Motion is referred to a Committee of which the proposer, or the seconder in the absence of the proposer, is not a Member, or to the Executive, the proposer shall be entitled to attend that meeting and to explain the Motion. The Member may answer questions from the Executive or Committee, for the purposes of clarification, prior to any debate and may sit with the Committee or Executive for the item in question, subject to the access to information procedure rules. The Member may not partake in the debate, nor vote upon the item.

### **RULE 14: Motions without Notice**

The following motions, and amendments to motions, may be moved without notice:

- to appoint a Chair of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual, including referring any matter for consideration by the Executive or a Committee;
- to appoint a Committee or Member arising from an item on the summons for the meeting;
- to receive reports or adopt the recommendations of the Executive, Committees or Officers and any resolutions arising from them;
- to withdraw a motion;
- to extend the time limit for speeches;
- to amend a motion;
- to postpone consideration of a motion;
- to proceed to the next business;
- to take an immediate vote on a motion;
- to adjourn a debate;
- to adjourn a meeting;
- that the meeting continue beyond three hours in duration;
- to suspend a particular Council procedure rule;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a member named under Rule 23 or to exclude them from the meeting under that Rule; and
- to give the consent of the Council where its consent is required by this Constitution;
- motions relating to a vote by way of ballot;
- motions relating to announcements from the Chair, Leader, Members of the Executive, Head of Paid Service, Chief Financial Officer or Monitoring Officer;



- To carry out a statutory duty of the Council which, by reason of special circumstances, the Chair is of the opinion should be considered at the meeting as a matter of urgency;
- To invite a Member to withdraw in accordance with the Members' Code of Conduct.

## **RULE 15: Rules of Debate for Council**

Rules of debate for the consideration and determination of the annual budget, reference is made to the Council's Budget Procedure Rules in Part 5J of the Constitution.

### **15.1 Management of the debate**

The Chair shall have the control of any debate and will use discretion to ensure the effective, efficient, fair and orderly conduct of the business.

The Chair will normally follow the rules set out in this Council Procedure Rule but the Chair's interpretation, application or waiver of these rules of debate will be final.

### **15.2 Speeches and Questions**

Before moving the motion, the proposer will take any questions on the motion from Members. Such questions must directly relate to the motion being proposed and are restricted to questions directly relating to clarity of what is proposed.

No speeches or debate may be made after the mover has moved a proposal or amendment until the motion or amendment has been seconded.

Once a proposal has been moved and seconded, no questions nor answers are permitted, other than in respect of an amendment to the motion prior to such an amendment being moved. Once proposed and seconded, only speeches or debate are permitted.

### **15.3 Right to require Motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed or put to the meeting.

### **15.4 Secunder's Speech**

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

### **15.5 Content and Length of Speeches**

Speeches must be directed to the motion under consideration or to a personal explanation or point of order.

No speech by the proposer of a motion (but not an amendment) shall exceed 10 minutes, when proposing the motion and when exercising the right of reply at the close of debate on a motion. All other speeches in a debate shall not exceed 5 minutes. This rule is subject to the consent of the meeting to extend a speech.

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

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

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

## **15.7 Amendments to Motions**

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

- to refer the matter to an appropriate body or individual, including the Executive or a Committee, for consideration or reconsideration;
- to give guidance to the Executive or Committee on a subject determined under delegated powers;
- to amend the wording of the motion, provided that the effect is not to negate the motion or introduce a new proposal into the debate.

If necessary, the Chair, or an Officer supporting them, will read out the amended motion before the amendment is put.

If the Chair is of the opinion that any amendment proposed is of a defamatory, frivolous, vexatious or offensive nature, they may immediately put to the vote a motion that the amendment not be entertained or further permitted. If such a motion is seconded, a vote shall be taken without debate. If carried, the amendment will not be permitted and shall be considered disposed of.

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, but the Chair may permit two or more amendments to be discussed together (but not voted on) if in their opinion this would facilitate the conduct of the business.

If an amendment is not carried, other amendments to the original motion may be moved, provided that no such amendment may have a similar effect to one previously determined by the meeting.

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.

After an amendment has been carried, the Chair or an Officer supporting them, will read out the amended motion before accepting any further amendments.

After all amendments have been considered and determined there shall be an opportunity for further debate on the original motion, as amended or otherwise, as the case may be, prior to the taking of a vote.

## **15.8 Alteration of Motion**

With the consent of the seconder, and the Council, signified without discussion, a Member may alter: -

- a motion of which they have given notice; or
- a motion which they have moved without notice; or
- an amendment to a motion they have moved.

Only alterations which could be made as an amendment to the motion may be made.

## **15.9 Withdrawal of Motion**

A Member may withdraw a motion of which they have given notice, by simply not proposing it at the meeting.

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

## **15.10 Right of Reply**

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.

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. The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion before a vote is taken.

A Member exercising a right of reply shall confine him or herself to answering previous speakers and shall not introduce new matters or material. The Chair's ruling on this shall be final and not open to discussion.

## **15.11 Chair may sum up debate**

The Chair may, if they think fit, sum up the debate before putting a motion or amendment to the vote and if such debate involves a question of a legal, administrative or technical nature, they may request the appropriate statutory Officer, or their representative, to draw the attention of the meeting to any relevant factors.

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

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

- (i) to withdraw a motion;
- (ii) to amend a motion;
- (iii) to postpone consideration of a motion;
- (iv) to proceed to the next business;
- (v) to take an immediate vote on the motion;
- (vi) to adjourn a debate;
- (vii) to adjourn a meeting;

- (viii) that the meeting continue beyond three hours in duration;
- (ix) to exclude the public in accordance with the Access to Information Rules; and
- (x) to not hear further a Member named under Rule 23 or to exclude them from the meeting under that Rule.

### **15.13 Closure Motions**

A Member may move, without comment, the following motions at the end of a speech of another Member:

- (i) to proceed to the next business;
- (ii) to take an immediate vote on a motion;
- (iii) to adjourn the debate;
- (iv) to adjourn the meeting;
- (v) to exclude the public from the meeting in accordance with Access to Information Rules; or
- (vi) that a Member be not heard further in accordance with Council Procedure Rule 23.

If a motion to proceed to next business is seconded and the Chair considers the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then move, without further debate, to a vote on the procedural motion to proceed to next item of business. If that motion is carried then the substantive motion before Council is dropped and no decision has been taken on it and none will be recorded.

If a motion to take an immediate vote is put and seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion that the vote now be taken, to the vote, without debate. If the procedural motion is carried, they will give the mover of the original motion a right of reply and then move to the vote on the substantive motion.

If a motion to adjourn the debate or to adjourn the meeting, is proposed and seconded, and the Chair considers the item has not been sufficiently discussed and cannot be reasonably discussed at that meeting, they shall put the procedural motion to the vote without debate and without giving the mover of the original motion, or amendment, a right of reply. On resuming an adjourned debate, the Member who moved the adjournment is entitled to speak first; the proposer of the substantive motion, or amendment, will have their right of reply in the usual way at the end of the resumed debate. The motion may specify the location, date and time at which the adjourned debate or meeting shall take place, but if it does not, such decisions shall be determined following the meeting by the Chair in consultation with the Monitoring Officer. Members shall be advised in the usual way by notice of summons to the adjourned meeting.

If a motion to exclude the public is moved and seconded, which is not on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer, or their representative, as to whether members of the public may lawfully be excluded. If they may, the Chair shall put the procedural motion to exclude the public to the vote, without debate and without allowing a right of reply. If the procedural motion is carried, the Chair may, at their discretion, either immediately require the public to leave the meeting room or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.

If a motion that a named Member be not heard further, is proposed and seconded, the Chair shall put the motion to the vote without debate. If it is carried, the named Member shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

#### **15.14 Points of Order**

A Member may raise a point of order at any time by indicating to the Chair. The Chair will hear them immediately, subject to Council Procedure Rule 23.4.

A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member shall be required by the Chair to indicate the Council Procedure Rule or law they consider has been breached and the way in which they consider it has been breached before they are heard.

The ruling of the Chair on the matter will be final and is not open to discussion.

#### **15.15 Personal Explanation**

A Member may make a personal explanation at any time, by indicating to the Chair. The Chair shall hear them immediately, subject to Council Procedure Rules 15.14 and 23.4.

A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final and is not open to discussion.

#### **15.16 Recommendations to Council from the Executive and Committees**

Any recommendations from, or reports by, the Executive or a Committee, to Council, shall be taken in date order, unless otherwise required. Each recommendation shall be moved by the Leader or relevant Executive Member if Executive, or Committee Chair, if a Committee, or their representative. After being moved and seconded, the matter shall be open to debate and the rules of debate above shall apply.

### **RULE 16: Motion to Rescind or Amend a Previous Decision**

#### **16.1 Motions on Notice to rescind a previous decision or similar to one previously rejected**

A motion on notice to rescind a decision made at a meeting of Council within the past six months, or a motion on notice similar to one previously rejected in that period cannot be moved unless the notice of motion is signed by at least 17 Members of the Council or advice has been given by one of the Council's statutory officers that the matter should be reconsidered.

#### **16.2 Motions arising during debate to rescind a previous decision or similar to one previously rejected**

If a motion or amendment is raised during a debate at a meeting of Council, to rescind a decision made at Council within 6 months, or similar to one rejected within the previous 6 months, the Chair shall reject it.

## **16.3 Exceptions**

- Council Procedure Rules 16.1 and 16.2 do not apply;
- To motions moved in pursuance of a recommendation of the Executive or a Committee; or
- To motions to carry out any statutory duty of the Council which, in the opinion of the Chair, is of an urgent nature; or
- Where a decision has been made by another body since the Council's decision, which significantly affects the decision and necessitates reconsideration of the matter.

## **RULE 17: Voting**

### **17.1 Majority**

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

Unless a ballot or recorded vote is demanded or required, then the Chair shall take the vote by show of hands.

The Chair shall ascertain the number of Members voting for, against or abstaining on any question, shall announce those numbers to the meeting, and declare the result and whether the motion is carried or not. The Chair's declaration as to the result will be final.

### **17.2 Chair's Casting Vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote. The Chair may only use a casting vote if they have already cast their deliberative vote.

If there are equal number of votes for and against and the Chair chooses not to exercise their casting vote, then the matter to be determined shall fall.

### **17.3 Ballot**

A ballot is a vote whereby Members signify their vote by writing on a piece of paper issued to them individually for that purpose and the vote of individual Members is not identified as being by that Member. The vote will take place by ballot if a majority of Members present at the meeting demands it, and there has been no valid request for a recorded vote. Such demand to be made by motion without notice, moved, seconded and voted on without debate.

The Chair shall announce the numerical result of the ballot immediately the result is known.

### **17.4 Recording of Voting at Budget Decision Meeting**

At a budget decision meeting of the authority where making a calculation under the relevant sections of the Local Government Finance Act 1992 or issuing the precept as the case may be was included as an item of business on the agenda for that meeting, the minutes of the meeting shall record in respect of each member present whether they voted for a proposition, or against a proposition, or abstained from voting.

The references above to voting are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

Further reference should be made to the Budget Procedure Rules at Part 5J of this Constitution.

### **17.5 Matters for Noting**

Where a meeting of Council is asked to simply note a matter, rather than determine it, or make any substantive decision, the Chair will take the vote by the affirmation of the meeting, provided there is no dissent.

### **17.6 Recorded Vote**

A recorded vote is a vote by way of roll call and shall be recorded in the minutes of the meeting to show how each Member present and voting cast their vote. The name of any Member present and abstaining from voting shall also be recorded.

Any Member can request, before the vote is taken, that their individual vote is recorded.

Any Political Group Leader may request, before a vote is taken, that the votes of everyone within that political group are recorded.

If 7 members request a recorded vote, before the vote is taken, then the vote is to be recorded.

### **17.7 Voting on Appointments**

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

## **RULE 18: Council Officers**

### **18.1 Officers Speaking at Council**

Other than in relation to Council Procedure Rule 18.2, no Officer other than:

- The Head of Paid Service;
- The Monitoring Officer, or their representative at a meeting;
- The Chief Financial Officer, or their representative at a meeting.

Shall be called upon to speak at a Council meeting without the consent of the Head of Paid Service. However, where the consent of the Head of Paid Service is given, Officers in addition to those listed above, may be called upon to contribute by way of advice, guidance or presentations on any matter under consideration at the meeting.

### **18.2 Officer Reports to Council**

Where any matter is subject to a report direct to Council, from an Officer, the Officer may introduce the report, answer any questions for the purpose of clarification and provide advice during the debate. The Officer may decline to answer questions which they perceive to be political in nature.

### **18.3 Matters Affecting Officers**

If any question arises at a meeting of Council, the Executive or a Committee at which the public are in attendance as to the appointment, promotion, dismissal, remuneration, pension matters, conditions of service or conduct of any officer of the Council, such question shall not be the subject of discussion until the Council, the Executive or the Committee, as the case may be, has considered excluding the public under the Access to Information Procedure Rules and section 100A of the Local Government Act 1972.

#### **RULE 19: Representatives on Outside Bodies**

Members of the Council who are appointed to outside bodies as representatives of that Council are encouraged to keep other Members of the Council informed about such meetings they attend on an informal basis.

Where a Member who is a representative on an outside body is of the view that a matter to be considered by that body is of such importance as to require that they are informed as to the Council's opinion on that item, the Member shall be entitled to request the Monitoring Officer to place the item on the agenda of the appropriate Council meeting, the Executive or a Committee. The Member may address the Council, Executive or Committee as in Council Procedure Rule 13.7.

#### **RULE 20: Confidentiality of Papers**

Save as provided by the Local Government Act 1972, and the Access to Information Procedure Rules, all summonses, agendas, reports and other documents shall be treated as confidential unless and until either they become public in the ordinary course of the Council publishing its business, or the consent of both the Chair and the Monitoring Officer are obtained.

#### **RULE 21: Minutes**

##### **21.1 Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record, provided that the previous meeting took place more than 10 clear working days prior to the day of the meeting. The only part of the minutes that can be discussed is their accuracy. Any questions as to the accuracy of the minutes as a record shall be raised by motion.

Where there is no ordinary meeting of a Committee or Sub-Committee expected to take place within a period of 6 months after a meeting for which draft minutes have been prepared:

- In respect of a Committee, Council may agree the accuracy of the minutes;
- In respect of a Sub-Committee, the 'parent' Committee may agree the accuracy of the minutes;
- In respect of Committees or Sub-Committees which have ceased to meet and their functions have been subsumed in another Committee or Sub-Committee, the new Committee or Sub-Committee may agree the accuracy of the minutes;



## **21.2 Minutes at extraordinary meeting**

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

## **21.3 Form of Minutes**

Minutes of Council and non-Executive meetings will contain a summary of any debate, setting out the main points that were considered, all motions and amendments in the exact form and order the Chair put them, and the wording of the final decision. Minutes are not intended to be a verbatim record of events.

Minutes of Executive meetings shall contain a summary of the reasons for the decision, the decision and the date for call-in.

### **RULE 22: Status of Draft Records of Decisions and Minutes**

Until such time as the Council, the Executive or a Committee whose record is set out in the draft record or minute confirm that record or minute as an accurate record of their decision, they are a working draft only.

Subject to Council Procedure Rule 21.1, only the body whose record is set out in the draft record or minute may alter or amend the record or minute.

If a Member wishes to propose a recommendation to Council that differs from that set out in the draft record or minute then it must be done by way of an amendment to the motion before Council.

### **RULE 23: Attendance and Conduct of Members**

#### **23.1 Record of Attendance**

All Members present during the whole, or part, of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Any omission may be remedied at the discretion of the Monitoring Officer, or by the amendment of draft minutes of a meeting prior to confirmation, at the next or subsequent meeting in accordance with Council Procedure Rule 21.

#### **23.2 Attendance for Part of a Meeting**

Any Member who is not present for the entirety of an agenda item, and has not heard the whole of the presentation and/or debate, is precluded from participating in the vote of that matter.

#### **23.3 Speaking at Council**

A Member may indicate their desire to speak at full Council, by raising their hand. When called to speak by the Chair of the meeting, they should stand, where comfortable to do so, and should address the meeting through the Chair. If more than one member indicates a desire to speak, the Chair will attempt to take speakers in the order in which they indicated.

Other Members must remain silent whilst a Member is speaking. Other Members must remain seated whilst a Member is speaking, unless they wish to make a point of order or a personal explanation.

### **23.4 Chair standing**

If the Chair stands during a debate, any Member speaking at the time must stop speaking and be seated. The meeting must be silent, whilst the Chair speaks.

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

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may direct the Member to stop speaking. If following such a direction to stop speaking, the Member continues to speak, the Chair may move that the Member be not heard further on the agenda item. If seconded, the Chair shall put the motion to the vote without discussion. If passed, the Member shall not be permitted to speak on the same matter again during that meeting.

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

If a Member persistently disregards the ruling of the Chair by continued irrelevance or repetitions, or by behaving improperly or offensively, or deliberately obstructs business, the Chair may request the Member to leave for the remainder of the meeting. If following a request to leave the meeting, the Member fails to leave, the Chair may move that the named Member leaves the meeting, or that the meeting is adjourned for a specified period. If seconded, the Chair shall put the motion to the vote without discussion.

### **23.7 General disturbance**

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

### **23.8 Electronic Devices**

Members may at any meeting use any device for the recording of the meeting, the sending or receiving of communications in relation to the meeting or the publication of the contents of the meeting, provided that:

- Such device remains silent;
- The Member does not record or communicate any matter or information relating to the contents of any meeting or part of a meeting which is in relation to information which is confidential or which the Members have agreed to exclude the public in accordance with the Access to Information Procedure Rules.
- The use of the device does not disrupt the meeting nor distract members of the public, or any Member from the content of the meeting;
- No oral commentary is recorded;
- The Member complies with statutory provisions relating to data protection and other legislation relating to the recording, use of and retention of personal data.
- If the Member's use of a device does not comply with this Council Procedure Rule, then the Chair of the meeting may take action in accordance with Council Procedure Rule 24.6.
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## **23.9 Vacation of office by failure to attend meetings**

If a Member fails for a period of 6 months from the date of their last attendance, to attend a meeting of the authority, they shall, unless the failure was due to a reason approved by the authority before the expiry of that six month period, cease to be a Member of the Council.

Further advice should be sought, in a timely manner, from the Monitoring Officer as to what would constitute attendance at a relevant meeting to prevent section 85 of the Local Government Act 1972 having the effect of vacating the Member from their office.

## **RULE 24: Attendance and Conduct of the Public**

### **24.1 Exclusion of the Public**

Members of the public and press may only be excluded from a meeting of the Council either in accordance with the Access to Information Rules in this Constitution or this Council Procedure Rule. .

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

If a member of the public interrupts proceedings, causes a disturbance or behaves improperly, or offensively, or by deliberately obstructing business, the Chair will warn the person concerned. If they continue their conduct after having been warned, the Chair may direct that they leave the meeting room. If necessary or appropriate, the Chair may adjourn the meeting for a short period to enable the person to leave.

### **24.3 General disturbance**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may direct that the part of the meeting room be cleared. If necessary, or appropriate, the Chair may adjourn the meeting to enable the area to be cleared.

## **RULE 25: Delegations**

The Council may delegate non-Executive matters from time to time to Committees as it sees fit or as legislation prescribes. The Leader may delegate Executive matters from time to time to the Executive.

Both the Council and the Leader may delegate matters from time to time to Officers as it sees fit or as legislation prescribes, in addition to those delegated under the Scheme of Officer delegations.

When delegating to the Executive, a Committee or an Officer, the Council may give guidance as to the manner in which the matter should be dealt with, provided that such guidance does not have the effect of causing Council to breach the rules of natural justice, prejudicing the determination by the delegatee required to be judged on its own merits, or of fettering the discretion of the delegatee.

No individual Member, Officer or group of Members or Officers, or both, shall be entitled to exercise any power or function of the Council save as delegated to them by the Council, the Executive, a Committee or another Officer exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

Whilst the Chair of a Committee and Executive Members can expect to be consulted on matters affecting their areas of responsibility, they shall not have power to act on behalf or, or bind, the Council, unless the Council or the Leader has given them specific delegated powers to do so.

## **RULE 26: Attendance by Members at Meetings of which they are not a Member**

### **26.1 Attendance by the mover of a motion**

A Member of the Council who has moved a motion which has been referred to the Executive or a Committee shall be given notice by the Monitoring Officer of the meeting at which it is proposed that the motion be considered. The Member shall have the right to attend the Meeting whilst the motion is being considered, to explain the motion and answer questions.

### **26.2 Attendance by Representative on Outside Body**

Where a Member has requested the Monitoring Officer to place an item on the agenda in accordance with Council Procedure Rule 19, they shall have the right to attend that meeting whilst that item is under consideration.

### **26.3 Attendance of Members at Meetings**

Any Member of the Council may attend, in the public gallery, as an observer, any Committee or Sub-Committee of which they are not a Member. A Member observing may remain in the Meeting where the public are excluded, subject to the provisions of the Access to Information Procedure Rules, provided that they have a need to know about the matter under consideration, and that they do not have a relevant interest in the matter that would preclude their attendance. It is assumed that every Member will have a need to know about the matter under consideration, although this presumption is rebuttable and advice should be taken from the Monitoring Officer.

A Member of the Council who is not a Member of the Executive or a Committee, and has a relevant interest in any item under consideration at a particular meeting, that would prevent them from participating if they were a Member of the Executive or that Committee, is not entitled to be present in any part of the room where the meeting is taking place during the discussion of that item, unless a dispensation has been granted by the Monitoring Officer.

No Member is entitled to attend any of the Meetings below unless they are appointed as a Member of that Committee or are substituting for such a Member. Council Procedure Rule 26.3 therefore does not apply when:

- The Standards Sub-Committee goes into closed session to determine a Member conduct complaint;
- The Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
- Any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedure, or any other employment policy;
- Any Committee considering the appointment of a Council Officer.

## **26.4 Speaking by Members at meetings**

Subject to the provisions below, an observer may, at the discretion of the Chair be invited to speak on an item under consideration at that meeting. The Member must have, prior to the commencement of the meeting, notified the Chair of their desire to address the meeting. The Chair shall have total discretion as to whether or not to invite such a Member to address the meeting.

However, a Member who is not a Member of the Development Control Committee may not address that Committee in respect of any planning application, unless a similar right within the Constitution is granted to the applicant, any objector and any supporter.

A Member who is not sitting as a Member of the Licensing Committee or the Licensing Sub-Committee may not address that Committee or Sub-Committee unless they have a right to speak under relevant statutory regulations.

A Member who is not sitting as a Member of the Standards Sub-Committee may not address the Sub-Committee when hearing a code of conduct complainant, unless they are representing or acting as witness for either the Monitoring Officer, Investigating Officer or the Subject Member.

## **26.5 Leader of the Council**

The Leader of the Council, or Deputy Leader in their absence, may attend any meeting of a Committee and speak on any item under consideration as of right, unless they have a relevant interest in the matter that would preclude them from being present.

However Council Procedure Rule 26.5 does not apply to meetings of:

- The Standards Sub-Committee goes into closed session to determine a Member conduct complaint;
- The Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
- Any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedure, or any other employment policy;
- Any Committee considering the appointment of a Council Officer.

## **26.6 Voting**

A Member of the Council attending a meeting of the Executive or a Committee on which they have not been appointed to serve, and are not acting as a substitute Member is not entitled to vote on any item under consideration.

### **RULE 27: No Confidence in the Chair of a Committee**

At any meeting of a Committee, a Member of that Committee may move that 'the Meeting has no confidence in the Chair'. If seconded, the motion shall, after debate, be put and, if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the meeting shall be chaired by the Vice-Chair or, in their absence, by a Member elected for that purpose by the Meeting.

During the consideration of such a motion the Chair shall cease to be the Chair of the Committee and shall be an ordinary member of the Committee, and as such, the Chair's casting vote would not apply. The Monitoring Officer, or their representative, will act as Chair of the Committee during consideration of the motion.

Following a successful vote of no confidence in the Chair, they shall not officiate at any subsequent meeting of the Committee prior to the next meeting of the Council. At that meeting, the Council shall consider whether or not to confirm the vote of no confidence. If by a simple majority they decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and a new Chair shall be elected by the Council. If the Council does not confirm the vote by a simple majority, the Member remains as the Chair of the Committee.

## **RULE 28: The Leader of the Council**

### **28.1 Appointment of the Leader**

The Council shall elect a Leader at each Annual Council Meeting where the term of office of the Leader has come to an end due to the fact that their term of office as a Councillor has ended.

Members present at the Annual Council Meeting shall nominate one or more persons to be Leader, from among the Members. Any nomination which is not seconded, shall not be considered further.

Where there is only one Member nominated and seconded, then the Chair shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Leader.

Where there are 2 Members nominated and seconded then, following the opportunity for debate, the Chair shall call for a vote and the Member who received the largest number of votes shall be elected as Leader.

Where there are 3 or more candidates seeking appointment to a single position, there shall be a vote for each candidate; and

If one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed;

If no candidate received more than half of all the votes cast then the candidate with the least number of votes will be eliminated and a new vote taken. This process will continue until there is a majority of votes for one person.

The motion shall be in accordance with Council Procedure Rule 13 and the voting shall be in accordance with Council Procedure Rule 17.

### **28.2 Removal of the Leader**

If a Member wishes at a Council meeting to move a motion of no confidence in the Leader of the Council, the Member must give not less than 10 clear working days' notice to the Monitoring Officer via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The motion must be signed by the mover and the seconder.

The Monitoring Officer shall place the motion on the agenda for the next meeting of Council, provided that such meeting is not a Special Meeting. The motion before the Council shall be considered after the receipt of any declarations of interest, approval of minutes of the last meeting and questions and statements by the public.

The motion shall be in accordance with Council Procedure Rule 13 and the voting shall be in accordance with Council Procedure Rule 17.

### **28.3 Consequence of a Motion of No Confidence**

Where a motion of no confidence is carried, the Leader shall cease to be the Leader of the Council with immediate effect. The Council shall proceed to elect a new Leader at that meeting or the next meeting of the Council, provided it is not a special meeting.

### **28.4 Term of Office**

The Leader shall hold the office of Leader in accordance with Part 2D of the Constitution (Article 4). Should the Leader resign from their appointment, an Extraordinary Meeting will be called to deal with the appointment of a new Leader in accordance with this Council procedure Rule. The Deputy Leader will assume the role of Leader until such appointment is made.

## **RULE 29: Chair of the Council**

### **29.1 Election**

The Council shall elect a Chair at each Annual Council Meeting. The existing Chair shall take the Chair for the item on the agenda, unless he is conflicted, when the Vice Chair will take the Chair for the single item of business. If both the Chair and Vice Chair are conflicted, the Monitoring Officer, or their representative, will take the Chair for the election of the Chair.

Members present at that Annual Meeting shall propose one or more persons to be Chair from among the Members. Any proposal which is not seconded shall not be considered further.

Where there is only one Member proposed and seconded, the Chair shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Chair.

Where there are 2 Members proposed and seconded, then a debate on the proposals will follow, then the Chair shall call for a vote and the Member who received the largest number of vote shall be elected as Chair.

Where there are 3 or more Members proposed and seconded, following a debate on the proposals, the Chair shall call for a vote for each Member proposed and:

If one proposed Member receives more than half of all the votes cast in the election, that Member is elected as Chair;

If no Member received more than half of all the votes cast then the Member with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person, who shall be elected as Chair.

Voting will take place in accordance with Council Procedure Rule 17.

## **29.2 Removal**

If a Member wishes at a Meeting of Council to move a motion of no confidence in the Chair of the Council, the Member must give not less than 10 clear working days' notice in writing to the Monitoring Officer via email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk). The motion must be signed by the mover and the seconder.

The Monitoring Officer shall consider the motion in accordance with the provisions of Council Procedure Rule 13. If accepted, the Monitoring Officer shall place the motion on the agenda for the next meeting of the Council, provided that such a meeting is neither a Special Meeting nor Annual Council Meeting. This may be at an Extraordinary Meeting of the Council if the provisions of Council Procedure Rule 4 have been complied with. The motion before the Council shall be considered as the first item of business after the receipt of any declarations of interest, approval of minutes of the last Meeting and questions by the public.

During the consideration of such a motion, the Chair shall cease to be Chair of the Council and shall be an ordinary Member of the Council. The Monitoring Officer, or their representative, shall act as Chair during consideration of the motion.

After debate, the motion shall be put to the vote and if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the Meeting shall be chaired by the Vice Chair.

## **29.3 Consequence**

Where a motion of no confidence in the Chair of the Council is carried, the Chair shall cease to be the Chair of the Council with immediate effect. The Council shall proceed to elect a new Chair at that meeting of the Council. The item of election of the new Chair shall be chaired by the Monitoring Officer or their representative.

## **RULE 30: Business of an Urgent Nature**

If having consulted both the Chief Financial Officer and the Monitoring Officer, the Chief Executive is of the opinion that urgent action is required, in accordance with the Scheme of Officer Delegations, before a decision could be taken by Council, the Executive or a Committee that has the appropriate authority, they may take the decision in accordance with their urgency power as set out in the Part 4A of the Constitution (Officer Scheme of Delegations).

If the decision is one which would normally be taken by the Council, the Chief Executive will consult with the Leader of the Council and all other Group Leaders, where practicable. If the decision is one which would normally be taken by the Executive, the Chief Executive will consult with the Leader. If the decision is one which would normally be taken by a Committee, the Chief Executive will consult with the Leader and the Chair of that Committee.

Every such decision shall be reported to the next available Ordinary Meeting of the Council, Executive or the Committee that would normally have taken the decision.



## **RULE 31: Filming and recording**

The law allows the proceedings of council meetings which are open to the public to be filmed and/or recorded. Any such filming or recording can be by any member of the public, whether or not they are connected with the media. For more information about this, please see <https://www.westoxon.gov.uk/media/zz2cbxhw/filming-and-recording-of-meetings-protocol.pdf>

## **RULE 32: Suspension and Amendment of Council Procedure Rules**

### **32.1 Suspension**

All of these Council Procedure Rules except those parts of Rule 17 relating to the right to record an individual vote; and Rule 21 relating to the signing of minutes at an extraordinary meeting, may be suspended by motion on notice, or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### **32.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, where a report will be received with a recommendation from the Monitoring Officer.

## **RULE 33: Application of Rules to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of full Council.

None of the rules apply to meetings of the Executive, except where expressly stated.

Subject to any requirements or exceptions set out in them, the following Rules:

- Rule 6 (Time and Location of Meeting)
- Rule 7 (Notice and Summons)
- Rule 8 (Chair of meeting)
- Rule 9 (Quorum)
- Rule 10 (Duration of meeting)
- Rule 11 (Questions and engagement from the Public)
- Rule 12 (Questions by Members)
- Rule 13 (Motions on notice)
- Rule 14 (Motions without notice)
- Rule 15 (Rules of debate for Council)
- Rule 16 (Motion to rescind or amend previous decisions)
- Rule 17 (Voting)
- Rule 21 (Minutes)
- Rule 23 (Attendance and Conduct by Members)
- Rule 23 (Attendance and Conduct by the Public)
- Rule 32 (Suspension and Amendment of Council Procedure Rules)
- Rule 33 (Application to Committees and Sub-Committees)

shall apply to meetings of Committees and Sub-Committees, including Overview and Scrutiny Committees and Overview and Scrutiny Sub-Committees.



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## **5B EXECUTIVE PROCEDURE RULES**

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### **1.0 INTRODUCTION**

The Executive Procedure Rules have been adopted by the Council to help achieve the following:

- To protect the interests of the Council, individual Members and Officers;
- To ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
- To ensure that decisions are made in accordance with the Council's agreed governance arrangements.

These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:

- Scheme of Delegations (Part 4)
- Access to Information Procedure Rules (Part 5G)
- Overview and Scrutiny Procedure Rules (Part 5C)
- Members' Code of Conduct (Part 6A)
- Member / Officer Protocol (Part 6B)
- Article on Decision Making (Part 2H)

### **2.0 HOW THE EXECUTIVE OPERATES**

#### **2.1 Who may make Executive decisions?**

The arrangements for the discharge of Executive functions may be set out in the Executive arrangements, being these Executive Procedure Rules, adopted by the Council and forming part of the Constitution.

The exercise of any arrangements not set out here, may be decided by the Leader of the Council.

In either case, the Executive Procedure Rules or the Leader may provide for Executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a Committee of the Executive;
- (iii) an individual Executive Member;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) Under Joint Arrangements; or

- (vii) By another Local Authority.

## **2.2 Delegation by the Leader of the Council**

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in [Part 3D \(Executive Functions\)](#) of this Constitution.

The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- (ii) the extent of any authority delegated to Executive Members individually, including details of any limitation or consultation requirement on their authority;
- (iii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to Area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year; and
- (v) the nature and extent of any delegation to Officers with details of any limitation or consultation requirements on that delegation, and the title of the Officer to whom the delegation is made.

## **2.3 Sub-delegation of Executive functions**

All Executive power vests in the Leader of the Council. The Leader may discharge any Executive function, or may arrange for any Executive function to be delegated to the Executive, an individual Executive Member, a Committee of the Executive, an Area Committee, or an Officer.

If the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive, to an Officer, or to another body in accordance with joint working arrangements, but not to an Individual Executive Member.

Unless the Executive directs otherwise, where a Committee of the Executive or an individual Executive Member is responsible for an Executive function, they may delegate further to an Officer.

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

## **2.4 Changes to delegation arrangements**

This Constitution set out the delegation arrangements currently in force in the authority. The Leader may amend the delegation arrangements in respect of Executive functions at any time, but any other amendment may only be carried out by the Council.

To amend delegation arrangements in respect of Executive functions, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment, and whether it entails the addition or withdrawal of delegation from any person, body, Committee or the Executive as a whole.

The Monitoring Officer will present a report to the next Ordinary Meeting of the Council setting out the changes made by the Leader, and will produce a revised statement of delegation arrangements for inclusion in [Part 3D](#) of this Constitution.

Where the Leader seeks to withdraw delegation from a Committee or Sub-Committee, notice will be deemed to be served on that Committee when it has been served on the Committee's Chair.

## **2.5 Conflicts of Interest**

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

## **3.0 EXECUTIVE WORK PROGRAMME**

Subject to the Access to Information Procedure Rules in Part 5G, where an Executive decision is either "key" (see Part 2H Article on Decision Making) or "exempt" (see Part 5G), the decision shall not be taken unless details have been included and published for at least 28 days on the Executive Work Programme (sometimes known as the Forward Plan).

This requirement applies regardless of which individual or body is the decision maker and is therefore applicable to decisions to be made by the Executive collectively, or individually, and to Officers.

## **4.0 EXECUTIVE DECISIONS MADE BY THE EXECUTIVE**

When an Executive function has been delegated by the Leader to the body of the Executive as a whole, it may only exercise such functions and make such decisions at an Executive Meeting. Such a meeting must be held in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) Regulations 2012.

#### **4.1 Timing and Location**

The Executive shall meet at least 10 times per year at times and on dates to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader, in consultation with the Monitoring Officer.

#### **4.2 Public access to meetings of the Executive**

Meetings of the Executive will be open to the public, except when confidential or exempt information is being discussed. Further information on this is given in the Access to Information Procedure Rules in [Part 5G](#) of this Constitution.

#### **4.3 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be three members of the Executive. No substitutions are permitted.

#### **4.4 Chair**

If the Leader is present they will preside and Chair the Executive meeting. In their absence, the Deputy Leader will act as Chair, and in the absence of both the Leader and Deputy Leader then a person appointed to do so by those present shall preside.

#### **4.5 Member attendance at an Executive meeting**

Any member of the Council may attend any Executive meeting, and subject to the provisions in the Access to Information Procedure Rules at Part 5G of the Constitution, may remain present where the press and public have been excluded by the Executive.

#### **4.6 Business of an Executive Meeting**

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

- consideration of the minutes of the last meeting;
- apologies for absence
- declarations of interest, if any;
- participation of the public;
- receipt of announcements;
- matters referred to the Executive (whether by an Overview and Scrutiny Committee, by the Council or by the Audit and Governance Committee) for consideration by the Executive;
- consideration of reports from Overview and Scrutiny Committees; and
- matters set out in the agenda for the meeting.

#### **4.7 Agenda items at an Executive Meeting**

The Council, any Overview and Scrutiny Committee, any other Committee of the Council, and any Member or Statutory Officer of the Council, may place an item on the agenda of a meeting of the Executive.

If the volume of business for any one meeting appears excessive, the Leader and the Monitoring Officer jointly may agree to defer consideration of items to a later meeting, except that:

- (i) items placed on the agenda by the Council may not be deferred if the Council requires them to be considered at that meeting;
- (ii) reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at that meeting; and
- (iii) no deferral will be for more than two Ordinary meetings of the Executive (unless the person or body placing the item agrees).

#### **4.8 Consultation**

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### **4.9 Written Reports for the Executive**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Financial Officer.

The Officer's report shall include the following:

- The Executive portfolio within which the issues fall;
- The Ward(s) affected by the proposed decision;
- The name and title of the Officer writing the report;
- The name and title of the Accountable Officer;
- The date of the meeting at which the decision may be taken;
- The subject and title of the report;
- Whether the decision proposed in the report is a key decision or not;
- Whether the report contains exempt or confidential information;
- A description of the issue to be decided;
- Any consultation undertaken, the method and a summary of representations received;
- The Officer's recommendations and the reasons for them;
- Details of any alternative options considered;
- A list of background papers;
- Which of the Council's priorities the matter impacts;
- Legal implications;
- Financial implications;
- A risk assessment;
- Information on equalities impact; and
- Climate and ecological emergencies impact.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

#### **4.10 Decisions of the Executive**

Subject to the Access to Information Procedure Rules, after a decision has been taken by the Executive, draft minutes of the meeting will be published on the Council's website which shall include:

- The title of the item;
- The title of the decision making body;
- The date on which the decision was made;
- The date on which the decision may be implemented;
- Whether or not it was a key decision;
- Any declarations of discloseable pecuniary interests;
- The decision;
- The reasons for the decision.

The draft minutes will not be a verbatim record of the meeting.

The draft minutes will be published on the Council's website and made available to all Members via the democratic services electronic system by the end of the 5<sup>th</sup> working day following the day of the meeting.

### **5.0 EXECUTIVE DECISIONS MADE BY AN INDIVIDUAL EXECUTIVE MEMBER**

#### **5.1 Decision Making by an Individual Executive Member**

All decisions made by an Individual Executive Member are to be made following an Officer report and must be recorded on a Decision Notice, which must be made publically available by the end of the second working day following receipt of the Decision Notice.

All decisions made by an Individual Executive Member must be made in accordance with Part 2H of the Constitution; Article 8 which contains the principles of decision making.

#### **5.2 Consultation**

The requirements as to consultation set out in paragraph 4.8 above apply equally to Executive decisions to be made by an Individual Executive Member.



### **5.3 Written Reports for Individual Executive Member Decisions**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Finance Officer.

The report must contain the items as set out at paragraph 4.9 above.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

### **5.4 Timescales**

Subject to the Access to Information Rules, the decision may not be taken by the Individual Executive Member until the expiry of the time specified in the Executive Work Programme for a key decision ie 28 days. Further, the decision cannot be taken by the Individual Executive Member before the expiry of 5 clear working days after publication of the report. These two time periods can run concurrently.

The decision should be made by the Individual Executive Member within 14 days of the earliest date upon which the decision may be made.

The Individual Executive Member shall provide a written record of their decision, including reasons, to the Monitoring Officer by email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) within one full working day of the decision being made. Subject to Access to Information Rules, the decision notice will be published on the Council's website, and made available electronically to all Members via the democratic services electronic system, by the end of the second day following receipt of the Decision Notice.

### **5.5 Interests**

Prior to taking the decision, the Individual Executive Member will be required to consider whether they have any disclosable pecuniary interest or other interest in the matter as described in the Member's Code of Conduct. If the interest prevents the Individual Executive Member from taking the decision, they should take no part in it and refer the matter to the Leader without comment, save as to record the nature of their interest.

### **5.6 Leader making a decision referred by an Individual Executive Member**

The Leader may either make a decision on a report referred to them by an Individual Executive Member in accordance with paragraph 5.5 above, or may refer the report to the next meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a meeting of the Executive on the Decision Notice.

## **5.7 Delegations**

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified and Part 3 of the Constitution updated.

## **5.8 Record of Decisions made by Individual Executive Members**

A Decision Notice, setting out the decision, must be completed by the Individual Executive Member. The Decision Notice must include the items set out at paragraph 4.10 above.

## **6.0 EXECUTIVE DECISIONS MADE BY AN OFFICER**

Decisions made by Officers, whether Executive or not, should be made in accordance with the Officer Decision Making Protocol at Part 6H of the Constitution.

Where Executive decisions are delegated to a Committee of the Executive, or to individual Executive Members, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

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## 5C Overview and Scrutiny Rules

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### What Overview and Scrutiny Committees will there be?

1. The Council will have the Overview and Scrutiny Committees set out in [Article 3](#) (Economic & Social, Environment, and Finance & Management) and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees. Additional Overview and Scrutiny Committees may also be appointed by the Council for a fixed period, on the expiry of which they shall cease to exist.

### Terms of reference

2. Scrutiny Committees will have the power to investigate any matters they consider relevant to their work area, and to make recommendations to the Council, the Executive or any other Committee or Sub-Committee of the Council as they see fit.
3. Their terms of reference will be:-
  - (i) the performance of all Overview and Scrutiny functions on behalf of the Council in relation to the area of work allocated to that Committee. It is intended that the areas of work should be wide ranging and cut across the organisational structure of the Council. As a result there may at times be overlap between the interests of two or more Committees. In such a case the Chairmen of the Committees involved should agree how the situation should be managed;
  - (ii) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions. This includes the power to form joint Sub-Committees with the other Overview and Scrutiny Committees to perform functions in areas of common concern;
  - (iii) to receive reports from the leader at its first meeting after each annual Council meeting on the Executive's priorities for the coming year and its performance in the previous year;
  - (iv) to approve a work programme for the Committee, including the programme of any Sub-Committees it appoints so as to ensure that time is effectively and efficiently utilised;
  - (v) to receive requests from the Executive and/or the full Council for Overview and Scrutiny reports and to respond accordingly;
  - (vi) to put in place a system to ensure that referrals from the Committee to the Executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Executive

business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made

4. Scrutiny Committees should not be regarded primarily as an “appeals mechanism” to overturn or amend specific decisions (although they may, if they see fit, ask the Executive, the Council or another Committee to reconsider a decision); rather their function is to raise issues for consideration, to examine the intent and effectiveness of policy, to hold the Executive to account, and to represent the interests and views of the public within the Council.

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

5. Overview and Scrutiny Committees will consist of between 9 and 16 members, as the Council shall decide, and their political composition will reflect as nearly as possible the political composition of the Council as a whole.
6. Any Councillor except a member of the Executive may be a member of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which they have been directly involved. Members of the Executive shall not be eligible to sit on an Overview and Scrutiny Committee, either in their own right or as substitutes.
7. Each Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of people as non-voting co-optees.

### **Meetings**

8. There shall be at least six ordinary meetings of each Overview and Scrutiny Committee in each civic year. A programme of dates will be agreed by the Council early in each calendar year, as shall the time for the first meeting of each Overview and Scrutiny Committee after the annual meeting of the Council. However, each of the Committees may agree the times for its subsequent meetings at its first meeting in each civic year.
9. Normally, Committees will meet at intervals ranging from six to eight weeks, although this may be varied when the programme is agreed, and additional meetings may take place as specified in the following paragraph.
10. Special meetings of an Overview and Scrutiny Committee may be called at any time by the relevant Committee Chair (or in their absence, by the Vice-Chair), by the full Council, by any five members of the Committee, or by the Chief Executive, providing at least five clear working days’ notice is given.
11. In exceptional circumstances meetings may be called by the Chair with fewer days notice, providing the issue(s) to be discussed require an urgent decision, and providing as much notice as possible is given.

### **Quorum**

12. The quorum shall be such number as may be fixed by the Committee or Sub-Committee, provided that the number shall be:

- (i) not less than one quarter of the total membership of the Committee or Sub-Committee; and
  - (ii) subject to a minimum of three.
13. If a Committee or Sub-Committee does not fix a quorum, then the figure shall be one-quarter of its membership, or three, whichever is the greater.

### **Chairing Overview and Scrutiny Committee meetings**

14. Each Overview and Scrutiny Committee shall at its first meeting after the annual meeting of the Council elect a Chair and Vice-Chair from amongst the members of the Committee. If either position becomes vacant during the course of the year it will be filled by the Committee at its next meeting.

### **Work programme and annual report**

15. The Overview and Scrutiny Committees 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.
16. Overview and Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### **Agenda items**

17. Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.
18. The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council, the Executive, or any other Committee of the Council, 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 Council, the Executive or the relevant Committee, as it deems appropriate.
19. Under the Councillor Call for Action, Members may also bring matters of ward concern to the attention of the Council via the Scrutiny process. The Call for Action is deemed to be an option of “last resort” and details of its operation are set out in the Councillor Call for Action Protocol in Part 4-10 of this Constitution.

### **Policy review and development**

20. The role of the Overview and Scrutiny Committees 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](#).

21. In addition, Overview and Scrutiny Committees may make whatever recommendations or observations they see fit to the Council, the Executive or any other Committee of the Council, who must then consider them within six weeks of receipt.
22. Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
23. Where the cost of any single item of work exceeds £1,000, Overview and Scrutiny Committees will need the prior consent of the Council or the Executive to incur the expenditure. The Council will make budget provision available as necessary for that purpose and the Overview and Scrutiny Committee will be responsible for and manage that budget in accordance with the [Financial Procedure Rules](#) and [Part 2, Article 9](#) of the Constitution.

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

24. Once it has formed recommendations or observations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by whichever body in the Council the Committee deems appropriate.
25. If an Overview and Scrutiny Committee cannot agree on one single final report, then up to two minority reports may be prepared and submitted for consideration with the majority report.
26. The body receiving the report shall consider it within six weeks of it being submitted to the Chief Executive, or such longer timescale as the Chair of the Overview and Scrutiny Committee may agree.

### **Consideration of Overview and Scrutiny Committee reports**

27. The agenda for Council, Executive and Committee meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. Reports referred by Overview and Scrutiny Committees shall be included at this point in the agenda (unless they have been considered in the context of deliberations on a substantive item on the agenda) within six weeks of the Overview and Scrutiny Committee submitting its report, or such longer timescale as the Chair of the Overview and Scrutiny Committee may agree.

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

28. In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in [Part 5F](#) of this Constitution.
29. Overview and Scrutiny Committees will have access to the Executive work plan and timetable for decisions and intentions for consultation. Even where an item is not the

subject of detailed proposals from an Overview and Scrutiny Committee, the Committee will be entitled to respond in the course of the Executive's consultation process in relation to any key decision.

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

### **Members and officers giving account**

31. Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
32. In this context "senior officer" means the Chief Executive, any Director or Deputy Director, the Monitoring Officer, or any of the Council's Heads of Service.
33. Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
34. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **Attendance by others**

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

## Call-in

37. Where a decision is:
- (i) a key decision; or
  - (ii) is taken by the Executive itself; or
  - (iii) is taken under powers delegated by the Executive to individual Executive member(s); or
  - (iv) is taken under powers delegated by the Executive to a Committee or Sub-Committee; or
  - (v) is taken under powers delegated by the Executive to an officer, other than those set out in the [Officer Delegation Rules](#) under Part 4 of this Constitution;
- that decision shall be notified to all members of the Council as soon as possible after it is taken and shall be made available at the main offices of the Council.
38. The decision shall not be implemented for at least five clear working days after the notification is issued, unless the Leader (or, in their absence, the Deputy Leader or the Executive itself) with the support of the Chair of a Scrutiny Committee relevant to the issue decides that the matter is urgent, in which case the decision may be implemented immediately. In such a case all members of the Council shall be notified of the reasons for urgency.
39. The notice communicating the decision will bear the date on which it is published and will specify the date by which any objection to it must be lodged for it to be called in.
40. During that period, any four members of the Council will have the right to ask for the decision to be called-in for scrutiny by an Overview and Scrutiny Committee. Such a request must be made in writing and must state the reason the members believe call-in to be necessary. On receipt of such a request, submitted within the time limit allowed, the Chief Executive shall determine whether the reasons given for call-in are sufficient and if so they will call-in the decision, and notify the decision-taker of the call-in. The Chief Executive shall then either refer the call-in to the next available meeting of whichever Overview and Scrutiny Committee appears to them to be appropriate, or call a meeting of that Committee on such date as the Chair of that Committee may determine. If when considering a request for call-in the Chief Executive does not consider the reasons given to be sufficient, they will notify the relevant members in writing setting out why the call-in request has not be accepted.
41. Pending that meeting, the decision shall stand deferred and shall not be implemented unless:
- (i) the Leader (or, in their absence, the Deputy Leader or the Executive itself) with the support of the Chair of an Overview and Scrutiny Committee relevant to the issue decides that the matter is urgent. In such a case all members of the Council shall be notified of the reasons for urgency; or
  - (ii) the member who requested the call-in agrees to withdraw that request.
42. In either of these circumstances the decision may be implemented as soon as the initial period for objections has lapsed.
43. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter



to full Council (see also paragraph 46 below). If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision. That final decision shall not be subject to any further call-in procedure.

44. If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter either to Council or back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting.
45. 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.
46. However, if the Council does object, it has no locus to make decisions in respect of a Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
47. If the Council does not decide to refer the decision back to the decision making body or person, the decision shall take effect on the date of the Council meeting.
48. A recommendation from the Executive to the Council shall not be subject to the call-in provisions set out in these rules.
49. A decision-making person or body can only be required to reconsider any particular decision once.

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

50. Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Council, Executive or other Committees to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
51. 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.

52. Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Council, Executive or other Committee as it deems appropriate and shall make its report and findings public.

### **Matters within the remit of more than one Overview and Scrutiny Committee**

53. Scrutiny Committees have the power to investigate any matters they consider relevant to their work area, and to make recommendations to the Council, the Executive or any other Committee or Sub-Committee of the Council as they see fit.
54. It is intended that the areas of work of Overview and Scrutiny Committees should be wide ranging and cut across the organisational structure of the Council. As a result there may at times be overlap between the interests of two or more Committees. In such a case the Chairmen of the Committees involved should agree between them how the situation should be managed to ensure efficient use of Council time and resources.

## Councillor Call for Action Protocol

1. The Councillor Call for Action is a mechanism for enabling elected members to bring matters of ward concern to the attention of the Council, via the Scrutiny process.
2. The Constitution provides that any councillor may request that an item is placed on an Overview and Scrutiny Committee agenda, for consideration. The member making that request does not have to be a member of the Overview and Scrutiny Committee. Inclusion of the matter on the agenda is at the discretion of the Chair.
3. The Constitution also provides for the consideration of petitions submitted by members of the public. Ward councillors may encourage citizens to submit petitions as means of bringing issues of concern to the Council's attention.
4. The Call for Action is deemed to be an option of "last resort". A Call for Action will only be included on the relevant Overview and Scrutiny Committee agenda if the Chair, in consultation with the Chief Executive, Deputy Chief Executive or Monitoring Officer, is satisfied that:
  - the councillor has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
  - the issue of concern is a matter in respect of which the council has a statutory power or duty to deal with and is not precluded by adopted council policy or legislation; and
  - the issue of concern has a demonstrable impact on a part or the whole of the councillor's ward; and
  - the Call for Action does not, in any event, relate to:
    - (a) any matter relating to a planning decision;
    - (b) any matter relating to a licensing decision;
    - (c) any Council Tax/Housing Benefit complaints and queries;
    - (d) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
    - (e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-committee thereof.
5. A valid Call for Action will be considered at the next ordinary meeting of the relevant Overview and Scrutiny Committee.
6. The subject matter of the Call for Action will be the subject of a report from the relevant Head of Service, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Committee meeting to provide that information, make representations and answer questions.
7. The Call for Action will be considered by the Overview and Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.

8. A ward councillor may address the Overview and Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
9. The Overview and Scrutiny Committee may also consider representations from any citizens of the ward affected by the Call for Action, subject to the discretion of the Chair.
10. The ward councillor's role in the consideration of the Call for Action, as with any other formal Council business, is subject to compliance with the Members' Code of Conduct.

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## **5D Procedure in relation to Licensing Applications**

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The following procedure shall apply in relation to the determination of applications at meetings of Miscellaneous Licensing Sub-Committee:

- (1) Introductory remarks by the Chair.
- (2) Brief description of the application by the Council's Officers, including summary of written representations, observations and objections received from parties not attending the meeting in person to make oral representations.
- (3) Observations of consultees/relevant authorities.
- (4) Other submissions by way of objection.
- (5) Presentation by the applicant of the case for granting an application.
- (6) Members' questions.
- (7) Summing up by
  - a) The Council's Officers
  - b) The Applicant
- (8) Members retire for determination of the decision.
- (9) Members return to communicate their decision.
- (10) Decision is then provided to the applicant in writing which will also contain information regarding any right of Appeal.

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## 5E Standards Sub-Committee Procedure Rules

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**These procedure rules apply to meetings of the Standards Sub-Committee, or the Audit and Governance Committee, when sitting to hear and determine a member code of conduct complaint referred to it by the Monitoring Officer.**

### 1.0 DEFINITIONS

Complainant(s)	The person/people making the complaint.
Subject Councillor	The Councillor, co-optee, or Town or Parish Councillor against whom an allegation has been made.
Appointed representative	The Subject Councillor may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Standards Sub-Committee Members, another person.
Standards Sub-Committee	<p>A Sub-Committee of the Audit and Governance Committee in accordance with the provisions of the <i>Local Government Act 1972</i>.</p> <p>A meeting of the Standards Sub-Committee will consider whether the Subject Councillor has breached the Code of Conduct.</p> <p>A Sub-Committee of the Audit and Governance Committee, in accordance with the provisions of the Local Government Act 1972.</p> <p>Comprising 5 members of the Audit and Governance Committee, appointed by the Audit and Governance Committee.</p>
Independent Person	An Independent Person will be invited by the Monitoring Officer to attend the Standards Sub-Committee as a Member of the Sub-Committee. Their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Councillor's conduct constitutes a failure to comply with the Code of Conduct, in accordance with the provisions of the <i>Localism Act 2011</i> , and as to any action to be taken following a finding of failure to comply with the Code of Conduct

Investigating Officer	The person appointed by the Monitoring Officer to undertake a formal investigation on behalf of the Monitoring Officer. This person may be another Officer of the Council, an Officer of another Council or an external third party investigator appointed for the purpose.
Investigating Officer's report	The report of the Investigating Officer to the Monitoring Officer, setting out their findings and recommendations in respect of the allegation.
Legal Advisor	The Officer responsible for providing legal advice to the Standards Sub-Committee. This may be the Monitoring Officer, another legally qualified Officer, or an external third party legal advisor appointed for the purpose.
Chair	The Chair of the Standards Sub-Committee elected by that Sub-Committee to chair meetings for the municipal year.
Code	The Members' Code of Conduct for the relevant Authority formally adopted by it at the relevant time.
The Monitoring Officer	The Officer designated as such by West Oxfordshire District Council in accordance with <i>section 5 of the Local Government and Housing Act 1989</i> .
Exempt Information	As defined in <i>Section 100A and Schedule 12A to the Local Government Act 1972</i>

## 2.0 INTRODUCTION

Where the Monitoring Officer considers that it is in the public interest for a complaint to be considered by the Standards Sub-Committee, a Sub-Committee meeting will be convened, to determine whether the Subject Councillor has failed to comply with the Code of Conduct.

The Monitoring Officer will seek to convene the Sub-Committee meeting within 25 working days of receipt of the final Investigator's report or as soon as practicably possible thereafter. The Standards Sub-Committee will comprise 5 members appointed to that Committee by the Audit and Governance Committee, plus an Independent Person allocated to each meeting on a case by case basis by the Monitoring Officer, to act as a co-opted member of that Sub-Committee. For a meeting of the Standards Sub-Committee to be quorate and proceed, a minimum of three elected members of the Standards Sub-Committee plus an Independent Person must be present.

### **3.0 PRE-HEARING PROCESS**

The Monitoring Officer may invite the Subject Councillor to give a response in writing to the Investigator's report. This is done to establish what is likely to be agreed and what is likely to be in dispute at the hearing.

The Standards Sub-Committee, taking account of the advice of the Monitoring Officer, may issue directions about the way in which a Determination Hearing will be conducted, for example agreeing the number and identity of witnesses. Such directions may be given either before or at the Sub-Committee meeting, and may be decided at a pre-meeting or by correspondence involving all members of the Standards Sub-Committee.

Any pre-meeting to deal with pre-hearing process issues will be held in private without the Complainant or the Subject Councillor present.

### **4.0 DOCUMENTATION**

Standards Sub-Committee meetings are subject to the normal rules for publication of Council Agendas and Access to Information.

The Agenda papers for the Standards Sub-Committee will include:

- Complaint form and documentation
- Subject Councillor's written response
- Investigating Officer's report
- Monitoring Officer report
- For reference: Code of Conduct, Standards Committee Local Hearing Panel Procedure Rules

The Agenda and documents will be published under the Council's rules for exempt information. Prior to the Sub-Committee meeting, any documentation issued or exchanged during the process must be treated by all recipients as confidential unless and until the Sub-Committee resolves that the press and public should be excluded from the meeting at which the allegations are going to be heard.

If the Sub-Committee agrees that the meeting should be held in public, the Investigating Officer's report will be made available to the press and public in attendance at the meeting. The Chair may, at their discretion, allow a short adjournment of the meeting to enable them to read the report.

### **5.0 DETERMINATION HEARING PROCEDURE**

5.1 The Standards Sub-Committee will follow usual Committee procedures for apologies, and declarations of interests. The meeting shall be chair by the elected Chair, or their deputy in their absence. In the absence of both the Chair and the Deputy, the Sub-Committee will elect a Chair for that particular meeting.

5.2 The quorum for a Sub-Committee meeting will be 3 elected Members. Substitute Members are allowed only from the membership of the Audit and Governance



Committee Members will only be able to sit on the Standards Sub Committee for a Determination Hearing if they have undertaken standards training.

- 5.3 The Sub-Committee will be assisted on matters of law and procedure by the Legal Advisor. The Sub-Committee may take legal advice, in private, if necessary, from the Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Subject Councillor and the Investigating Officer.
- 5.4 The hearing will normally be held in public. However, the Sub-Committee will consider, having regard to any representations made by the Investigating Officer and / or by the Subject Councillor and advice from the Legal Advisor as to the public interest, whether to hear the matter, after the passing of a resolution to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in *Section 100A and Schedule 12A to the Local Government Act 1972*.
- 5.5 The Subject Councillor may be represented or accompanied by Counsel or a Solicitor or, with the permission of the Sub-Committee, any other person.
- 5.6 Normal hearing rules will apply in terms of providing opportunities to question witnesses and test evidence, subject to the principles of natural justice and the Human Rights Act 1998.
- 5.7 If the Subject Councillor (or their appointed representative) is not present, then the Sub-Committee will consider whether to proceed and hear the case and make a decision in absence, or whether to adjourn the hearing to another time or date. If the Subject Councillor has indicated that the hearing should continue in the absence of the Subject Councillor, this will normally happen.
- 5.8 The Chair will introduce the Members of the Sub-Committee, the Independent Person, the Legal Advisor, the Investigating Officer, the Subject Councillor and any other persons present.
- 5.9 The Legal Advisor will give a brief outline of the allegation before the Sub-Committee, namely that the Subject Member has failed to comply with the Code of Conduct, and outline the procedure to be followed and confirm that those present understand it.
- 5.10 The Investigating Officer will present the report into the allegation against the Subject Councillor including any findings of fact and make representations to substantiate the conclusion that the Subject Councillor has failed to comply with the Code of Conduct.
- 5.11 The Subject Councillor (or their representative) may question the Investigating Officer.
- 5.12 The Sub-Committee Members may question the Investigating Officer.
- 5.13 The Investigating Officer may call such witnesses as necessary (which may or may not include the Complainant).
- 5.14 The Subject Councillor (or their appointed representative) may question any witnesses called by the Investigating Officer.

- 5.15 The Sub-Committee Members may question any witnesses called by the Investigating Officer.
- 5.16 The Investigating Officer may ask further questions of any witnesses in order to clarify any point brought out in questioning of the witness by the Subject Councillor or the Sub-Committee.
- 5.17 The Subject Councillor (or their appointed representative) will present the case in relation to the Investigating Officer's findings and make representations about why the Subject Councillor considers that they did not fail to comply with the Code of Conduct. If the Subject Councillor admits that they breached the Code of Conduct the Sub-Committee may move to paragraph 5.32 below.
- 5.18 The Investigating Officer may question the Subject Councillor.
- 5.19 The Sub-Committee may question the Subject Councillor.
- 5.20 The Subject Councillor may call any witnesses.
- 5.21 The Investigating Officer may question any witness called by the Subject Councillor.
- 5.22 The Sub-Committee may question any witness called by the Subject Councillor.
- 5.23 The Subject Councillor may ask further questions of any witness in order to clarify any point brought out in questioning of the witness by the Investigating Officer or the Standards Sub-Committee.
- 5.24 The Independent Person may ask questions of the Investigating Officer, the Subject Councillor and any witness called by either of them, after such persons have been questioned by the Standards Sub-Committee.
- 5.25 The Investigating Officer will sum up the case in relation to the findings in their report.
- 5.26 The Subject Councillor (or their appointed representative) will sum up the case in relation to the findings in the Investigating Officer's report of whether there has been a breach of the Code.
- 5.27 The Independent Person will give their views to the Sub-Committee and these will be recorded in the Minutes of the meeting.
- 5.28 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Committee will need to pass a resolution under *Section 100A of the Local Government Act 1972* to exclude the public from the meeting. The Sub-Committee must take into account the views of the Independent Person before reaching a decision. Decisions will be determined by a simple majority of those Members present and voting; the Independent Person does not have a vote. Where there are equal numbers of votes for and against the Chair will have a second casting vote and there is no restriction on how the Chairman chooses to exercise a casting vote.
- 5.29 The Sub-Committee will announce their decision as to whether there has been a breach of the Code in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. The Sub-Committee will provide reasons for their decision and will explain any reasons why

any advice from the Independent Person has or has not been followed in giving its decision.

- 5.30 If the Sub-Committee decide that the Subject Councillor has not breached the Code, they shall dismiss the complaint and take no further action. However, they may still make general recommendations to the Council, its Audit and Governance Committee, the Monitoring Officer, or the Town or Parish Council, on any remedial actions, if it considers necessary to address the issues raised.
- 5.31 If the Sub-Committee decide that the Subject Member has breached the Code then the following paragraphs will apply.
- 5.32 The Sub-Committee may request, or allow, the Complainant, whether or not called as a witness, to make a statement in relation to the effect on the Complainant of any conduct of the Subject Councillor which is the subject of the breach. Such a statement may be made in person to the Sub-Committee or may be submitted in writing, but if submitted in writing, will be shown to both the Investigating Officer, the Subject Councillor and the Independent Person. A Complainant who makes such a statement may be questioned by the Sub-Committee, but may not be questioned in relation to the statement by the Investigating Officer or the Subject Councillor without the consent of the Sub-Committee.
- 5.33 The Investigating Officer may make representations as to whether the Sub-Committee should impose a sanction and what form any sanction should take.
- 5.34 The Sub-Committee may question the Investigating Officer in relation to any such representations.
- 5.35 The Subject Councillor (or their appointed representative) may make representations as to whether the Sub-Committee should impose a sanction and what form any sanction should take and may make representations as to mitigation.
- 5.36 The Sub-Committee may question the Subject Councillor in relation to any such representations.
- 5.37 The Legal Advisor will then raise any points that need to be addressed before the matter is determined.
- 5.38 The Independent Person will then give their views on the appropriate sanction, if any, to be imposed and their views will be recorded in the Minutes of the meeting.
- 5.39 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Sub-Committee will need to pass a resolution under *Section 100A of the Local Government Act 1972* to exclude the public from the meeting.
- 5.40 The Sub-Committee will come to a decision as to sanctions. Any sanction imposed must be reasonable and proportionate to the breach found and the Legal Advisor may advise the Sub-Committee in this regard. The Sub-Committee has no power to suspend or disqualify the member or to withdraw or suspend allowances. The Sub-Committee may:
- Censure or reprimand the Subject Councillor;

- Recommend to the Subject Councillor's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject Councillor be removed from the Executive or removed from particular Executive Portfolio responsibilities;
- Recommend to Council that the Subject Councillor be replaced as Executive Leader of the Council;
- Instruct the Monitoring Officer to, or recommend that a Town or Parish Council, arrange training for the Subject Councillor;
- Publish its findings in respect of the Subject Councillor's conduct;
- Report its findings to Council, or to a Town or Parish Council, for information.

The above is not exhaustive.

- 5.41 The Sub-Committee will announce its decision in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. The Sub-Committee will give reasons for its decision and will explain the reasons why any advice from the Independent Person has or has not been followed in giving its decision.
- 5.42 The Monitoring Officer will, within 10 working days of the Sub-Committee meeting prepare a formal Decision Notice, and send a copy to the Complainant, to the Investigating Officer and to the Subject Councillor (and to the Town or Parish Council if appropriate). The Decision Notice will be published as part of the Minutes of the Sub-Committee meeting and will be placed on the Council's website, regardless of whether the Sub-Committee excluded the press and public for the meeting or not, unless the Monitoring Officer determines that it should remain confidential.
- 5.43 The findings and recommendations of the Sub-Committee are final and there is no right of appeal against the decision of the Standards Sub-Committee.
- 5.44 The Chair of the Sub-Committee has the right to depart from this procedure, in consultation with the Monitoring Officer, or Legal Advisor, at any determination hearing where it is considered it is sensible to do so, to deal with the case fairly, effectively and in the public interest, provided that the principles of natural justice are upheld.

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## **5F Budget and Policy Rules**

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### **5F.1 The Framework for Executive Decisions**

The Council will be responsible for the adoption and amendment of its budget and policy framework. Once the budget and policy framework is in place, it will be the responsibility of the Executive to implement it.

### **5F.2 The Process for Developing the Framework**

The process by which the budget and policy framework shall be developed or amended is:

- 2.1 At least two months before a plan/strategy/budget needs to be adopted, the Executive will publish initial proposals for the amendment of the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the Executive's consultation process shall be included in relation to each of these matters in the Executive work plan, together with any other publicity the Executive deems appropriate.
- 2.2 Any representations made to the Executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where an Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Executive and considered in the preparation of initial proposals.
- 2.3 The Executive's initial proposals shall be referred to the relevant Overview and Scrutiny Committee(s) for further advice and consideration. The Overview and Scrutiny Committee(s) shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee(s) shall report to the Executive on the outcome of its deliberations.
- 2.4 The Overview and Scrutiny Committee(s) shall have six weeks to respond to the initial proposals of the Executive unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee(s) of the time for response when the proposals are referred to it.
- 2.5 Having considered the report of the Overview and Scrutiny Committee(s), the Executive, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee(s).
- 2.6 The Council will consider the proposals of the Executive and may adopt them. In considering the matter, the Council shall have before it the Executive's proposals and any report from any relevant Overview and Scrutiny Committee.

- 2.7 Where, following consideration of a draft plan or strategy submitted by the Executive, the Council has any objections to it, it must inform the Executive leader of any objections and must give to him/her instructions requiring the Executive to reconsider the draft plan or strategy in the light of those objections. This must be done before the Council:
- Amends the draft strategy;
  - Approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for approval, any plan or strategy (whether or not a draft) of which any part is required to be so submitted; or
  - Adopts (with or without modification) the plan or strategy
- 2.8 Where the Council gives instructions in accordance with 0 above it must specify a period of at least five working days beginning on the day after the Executive leader receives the instructions on behalf of the Executive within which the Executive leader may:
- (i) submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- 2.9 When the specified period of at least five working days has expired, the Council must take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement, which the Executive leader submitted to the Council, or informed the Council of, within the specified period before taking any of the actions referred to in 0 above. In these circumstances a further meeting of the Council will be convened.
- 2.10 If the Executive does not have any disagreement with the objections raised by the Council the plan or strategy will be effective at the expiry of the period of at least five working days, in accordance with the wishes of the Council.
- 2.11 The Council meeting must take place within 10 clear working days of the receipt of the Executive's written objection.
- 2.12 The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance, and shall be implemented immediately.
- 2.13 In relation to the budget where, before 8th February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year –

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts if the Council has any objections to them, it must take the action set out in the following paragraph.

2.14 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in sub-paragraph (a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive leader of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

2.15 Where the authority gives instructions in accordance with paragraph (l), it must specify a period of at least five working days beginning on the day after the date on which the Executive leader receives the instructions on behalf of the Executive within which the Executive leader may –

- (i) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
- (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

2.16 When the specified period of at least five working days has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (k)(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Executive's reasons for those amendments;
- (iii) any disagreement that the Executive has with any of the Council's objections; and
- (iv) the Executive's reasons for that disagreement,

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

2.17 Paragraphs 2.12 to 2.16 shall not apply in relation to –

- (i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

2.18 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5F.5 and 5F.6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **5F.3 Decisions outside the budget or policy framework**

3.1 Subject to the provisions virement the Executive, Committees of the Executive, individual members of the Executive and any officers, area Committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to 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 5F.4 below.

3.2 If the Executive, Committees of the Executive, individual members of the Executive and any officers, area Committees or joint arrangements discharging Executive 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.

3.3 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 5F.4 (urgent decisions outside the budget and policy framework) shall apply.

### **5F.4 Urgent decisions outside the budget or policy framework**

4.1 The Executive, a Committee of the Executive, an individual member of the Executive or officers, area Committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Overview and Scrutiny Committees' 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 a relevant Overview and Scrutiny Committee the consent of the Chair of the Council, and in the absence of both the vice-Chair, will be sufficient.

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

## **5F.5 Call-in of decisions outside the budget or policy framework**

- 5.1 Where an Overview and Scrutiny Committee is of the opinion that a Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 5.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every member of the Council.
- 5.3 Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer concludes that the decision was not a departure.
- 5.4 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to 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.
- 5.5 The Council shall meet within ten working days of the request by 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 or the Chief Finance Officer. The Council may either:
  - 5.5.1 endorse a decision or proposal of the Executive decision taker 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
  - 5.5.2 amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive 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
  - 5.5.3 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 Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

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## 5G Access to Information Rules

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### 1. **Scope**

Subject to specified exceptions, these rules apply to all meetings of the Council, Overview and Scrutiny Committees, area Committees and other Committees and meetings of the Executive (together called meetings).

### 2. **Additional Rights to Information**

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

### 3. **Rights to Attend Meetings**

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

### 4. **Notices of Meeting**

The Council will normally give five clear working days' notice of any meeting by posting details of the meeting at The Council Offices, Woodgreen, Witney. Notice will also be given by publishing the agenda at [www.westoxon.gov.uk/meetings](http://www.westoxon.gov.uk/meetings). If for any reason it is not possible to give five clear days' notice, the Council will comply with the statutory requirements where a meeting is summonsed in a shorter period.

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

The Council will make copies of the agenda and reports open to the public available for inspection at The Council Offices, Woodgreen, Witney, in accordance with the statutory requirement for these to be available five clear working days before the meeting. They will also be available from <https://www.westoxon.gov.uk/meetings>

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report has been completed and sent to Councillors.

### 6. **Supply of Copies**

On payment of any charge for postage, copying or other necessary charges for transmission, any person will be supplied with 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 Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item.

### 7. **Access to Agendas, Minutes and Reports after the Meeting**

The Council will make available copies of the following for a minimum of six years after a meeting, including on its website:

- (a) the minutes of the meeting or, for meetings of the Executive, records of decisions taken, together with reasons, excluding any part of the minutes of

- proceedings when the meeting was not open to the public and which disclose exempt or confidential information, as defined in Rule 0 below.
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

## **8. Background Papers**

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

Every report shall include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the author:

- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which have been relied on to a material extent in preparing the report but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 0 below) and/or, in respect of Executive reports, the advice of a political advisor.

For Executive meetings, the listed background papers will be published on the Council's website at [www.westoxon.gov.uk/meetings](http://www.westoxon.gov.uk/meetings).

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

Background papers listed in reports may be inspected by the public during the period of four years beginning with the date of the meeting.

## **9. Summary of the Rights of the Public**

This part of the Council's constitution meets the requirement that 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 the Council's main offices.

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

The following paragraphs set out circumstances in which the public may be excluded from meetings, as defined by the law. However, there is a general presumption that meetings will be open to the public to attend. Any person attending a meeting open to the public for the purpose of reporting the proceedings will be afforded reasonable facilities for taking their report. In addition to the following, the public may be excluded from a meeting if necessary to maintain orderly conduct or prevent misbehaviour.

### **10.1 Confidential information – requirement to exclude public**

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

### **10.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (as defined below) would be disclosed.

### 10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, or information which cannot be publicly disclosed under any enactment or by an order of a court.

### 10.4 Meaning of exempt information

Exempt information means information falling within the categories in the following table. These categories are subject to the qualifications and interpretation which follow the table.

	<b>Category</b>
	[For each of nos 1 – 0, see Qualification 1 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). [see Qualification 2 below]
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.

### 10.5 Qualifications:

- (1) Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—
  - (a) the Companies Acts (as defined in s.2 of the Companies Act 2006);
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 2011.
- (2) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (3) Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of the two preceding paragraphs

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.

## **10.6 Interpretation:**

- (4) "*Employee*" means a person employed under a contract of service;
- (5) "*financial or business affairs*" includes contemplated, as well as past or current, activities;
- (6) "*labour relations matter*" means—
  - (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992[10] (matters which may be the subject of a trade dispute, within the meaning of that Act); or
  - (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;
- (7) "*office-holder*", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority; "*registered*" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

The decision on whether information is confidential or exempt shall be made by the Monitoring Officer in consultation with the Head of Legal Services.

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

The Council may exclude access by the public to reports which in the opinion of the Monitoring Officer relate to items during which, in accordance with Rule 18, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" and will include reference to the category and description of the information likely to be disclosed.

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

Rules 13 to 23 below apply to the Executive and to any Committees of the Executive. If the Executive or one of its Committees meet to take a key decision then it must also comply with Rules 13 to 15 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is as defined in this Constitution.

If the Executive or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Executive work plan by which it is to be decided, then it must also comply with Rules 13 to 15 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings whose sole

purpose is for officers to brief members.

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

Subject to Rule 16 (general exception) and Rule 14.17 (special urgency), a key decision may not be taken unless:

- (a) a notice has been published in connection with the matter in question which complies with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
- (b) at least 28 clear days have elapsed since the publication of the notice referred to in the preceding paragraph; and
- (c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **14. Notice of Future Executive Decisions (Executive Work Programme)**

#### **(a) Period of Notice**

Notice of future Executive decisions will be published in accordance with this Rule 0 above. In addition to key decisions the notice will, wherever possible, include details of other decisions which the Executive is expected to take, and will aim to cover a period of approximately two to three months.

The Notice will be available at the Council Offices, Woodgreen, Witney, and on the Council's [website](#)

#### **(b) Contents of Notice**

The Notice of Future Decisions will contain matters which are believed will be the subject of a key decision to be taken by the Executive, a Committee of the Executive, individual members of the Executive, officers, or under joint arrangements in the course of the discharge of a Executive function during the period covered. It will provide the following:

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

#### **(c) Publication of Notice of Future Decisions**

The Notice referred to above must be published at least 28 clear days before the date of the first specified key decision.

The Notice will include particulars of any matter where the public may be excluded

from the meeting at which the matter is to be discussed, or where documents will not be available to the public, but will not contain any confidential or exempt information or particulars of the advice of a political adviser or assistant.

## **15 Decisions at Private Meetings**

Where a decision is likely to be taken with the public excluded from the meeting, the Council will make available at its offices a Notice of its intention to hold the meeting in private and publish on its website Notice of that intention at least 28 clear days in advance of the date of the private meeting where the decision will be taken. This Notice will be incorporated into the Notice referred to in paragraphs 00 above and 0 above, and will include a statement of the reasons for the decision to be taken in private.

At least five clear working days before the meeting, a further Notice of the intention to make the decision in private must be published. This must include a statement of the reasons for the meeting to be held in private; details of any representations received by the decision-making body about why the decision should be taken in public; and a statement of the response to any such representations. This Notice will be incorporated into the agenda for the meeting in question.

Where the date by which a meeting must be held makes the above procedure impracticable, the meeting may only be held in private where agreement has been obtained from the chair of the relevant Overview and Scrutiny Committee or, if there is no such person, or the chair is unable to act, the chair of the council, or, if there is no chair of the committee or the council, the vice chair of the council that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained a Notice must be made available at the Council Offices and on its website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

The Chief Executive will determine which is the relevant Overview and Scrutiny Committee for the purposes of this Rule.

## **16 General Exception – Key Decisions**

Where the publication of the intention to make a key decision as set out above is impracticable, subject to Rule 17 (special urgency), the decision may still be taken if:

- (a) The Chief Executive has informed the Chair of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of that Committee by notice in writing, of the matter about which the decision is to be made;
- (b) A copy of the notice referred to in (a) above has been made available for inspection by the public at the Council Offices, Woodgreen, Witney and on the Council's website; and
- (c) After five clear days have elapsed since the Chief Executive complied with (b) above.

The Chief Executive must, having carried out the above step, make available for inspection by the public at the Council Offices, Woodgreen, Witney and on the Council's website, a notice setting out the reasons why compliance with 0(b) above was impracticable.

## **17 Special Urgency – Key Decisions**

If the date by which a key decision must be made makes compliance with Rule 16 above impracticable, the decision may only be made with the agreement of the chair of the relevant Overview and Scrutiny Committee or, if there is no such person, or the chair is unable to act, the chair of the council, or, if there is no chair of the committee or the council, the vice chair of the council that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after such agreement has been obtained a Notice must be made available at the Council Offices and on its website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

The Chief Executive will determine which is the relevant Overview and Scrutiny Committee for the purposes of this Rule.

## **18 Report to Council**

### **(a) When an Overview and Scrutiny Committee can require a report**

If a relevant Overview and Scrutiny Committee thinks that a key decision has been taken which was not treated as being a key decision, the Committee may require the Executive 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 Executive, who shall require such a report on behalf of the Committee when so requested by the Chair. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **(b) Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven 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 the decision and the reasons for the decision, the decision maker by which the decision was made, and if the Executive is of the opinion that the decision was not a key decision, the reasons for that opinion.

### **(c) Reports on special urgency key decisions**

The leader will submit at least one report annually to the council, which contains details of each Executive decision taken since the submission of the last report which was agreed as urgent under the procedure in Rule 17 above. The report will include the particulars of each such decision made, and a summary of the matters in respect of which each decision was made.

## **19 Record of Decisions**

After any meeting of the Executive or any Committee of the Executive, the Chief Executive 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.



## **20 Executive Meetings to be held in Public**

With the exception of matters falling within Rule 0 above, all meetings of the Executive will be held in public.

## **21 Notice of Meeting of the Executive**

Members of the Executive or a Committee of the Executive 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.

The agenda and reports for any such meeting will also be circulated to all members of the Council, unless:

- (a) any individual member indicates that they do not wish to receive specified papers; or
- (b) in exceptional circumstances, taking into account the provisions of Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader or the decision taker, on the advice of at least two of the statutory officers agrees that the content of a report is of such a sensitive nature that it should be circulated only to members of the relevant decision making body; or
- (c) a report contains information or advice which the Council is unable to supply to members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

## **22 Member attendance at meetings of the Executive**

Members of the Council who are not members of the Executive may attend meetings of the Executive and any Committees of the Executive. At the discretion of the Executive they may join in debates but may not vote.

## **23 Decisions by Individual Members of the Executive**

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

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

### **b. Provision of copies of reports to Overview and Scrutiny Committees**

Any report prepared for an individual decision maker will be circulated to all members of the Council, subject to the exceptions referred to in Rule 21 above. The report will also be available to the public in accordance with these Rules.

### **c. Record of individual decision**

As soon as reasonably practicable after a Executive decision has been taken by an individual member of the Executive or by an officer, the Chief Executive will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

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## **5H: Contract Procedure Rules**

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A copy of the contract procedure rules are available on the Council's website:  
<https://www.westoxon.gov.uk/media/c4ppgm0v/contract-rules-2021.pdf>

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## **5I: Financial Procedure Rules**

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A copy of the Financial Procedure Rules are available on the Council's website:

[https://www.westoxon.gov.uk/media/g5lhx4vg/financial\\_rules\\_final\\_v1-0-july-2015-update.pdf](https://www.westoxon.gov.uk/media/g5lhx4vg/financial_rules_final_v1-0-july-2015-update.pdf)

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## 5J Officer Employment Procedure Rules

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### 1.0 Introduction

### 1.1 Definitions

In these Procedure Rules:

- 1.1.1 “The 2001 Regulations” means the Local Authorities (Standing Orders)(England) Regulations 2001 and “The 2015 Regulations” means the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
- 1.1.2 “Appointor” means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer.
- 1.1.3 “Disciplinary Action” in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council’s usual practice, be recorded on the Officer’s personal file. This includes any proposal for dismissal of an Officer for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.
- 1.1.4 “Dismissor” means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer.
- 1.1.5 “Head of Paid Service” means the Officer designated under section 4(1) of the Local Government and Housing Act 1989.
- 1.1.6 “Chief Finance Officer” means the Officer having responsibility for the purposes of section 151 of the Local Government Act 1972, for the administration of the Council’s financial affairs.
- 1.1.7 “Monitoring Officer” means the Officer designated under section 5(1) of the Local Government and Housing Act 1989.
- 1.1.8 An “Officer” may include an individual employed by the Council or employed by another employer with the purpose of providing a service to the Council. Such employer may be another Local Authority or Publica Group Ltd, for example.
- 1.1.9 “Statutory Chief Officer” means, for the purposes of these provisions, the Chief Financial Officer or the Monitoring Officer.

- 1.1.10 “Non Statutory Chief Officer” means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or Sub Committee, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.11 “Deputy Chief Officer” means a person who, with respect to all or most of the duties of his or her post, is required to report directly or is indirectly accountable to one or more of the Statutory or Non-Statutory Chief Officers, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.12 “Performance and Appointments Committee” means a Committee established by Council in accordance with the Local Government Act 1972. For the purposes of these Procedure Rules, at least one Member of the Executive must be a Member of this Committee.

## 1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all Officers other than the Head of Paid Service, the Chief Financial Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by either the Head of Paid Service, or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with either the Council’s or Publica Group’s Staffing Policies, as adopted from time to time, depending on which authority is the employing body.

## 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions, in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Chief Executive
Statutory Chief Officers	Chief Financial Officer Monitoring Officer
Non Statutory Chief Officers	None
Deputy Chief Officers	None

In accordance with the regulations, those posts, other than clerical or administrative posts, that are direct reports of the Head of Paid Service are known as Non Statutory Chief Officers and those posts that are direct reports of Chief Officers (Statutory or otherwise) are known as Deputy Chief Officers.

Officers of the Council, may or may not be employed by the Council. Where they are employed by another employer such as Publica Group, these Officer Employment Procedure Rules are supplemented by the Publica Group suite of human resources and employment policies.

## **2.0 Recruitment**

### **2.1 Declarations**

A candidate for any employment with the Council, or an Officer involved in a transfer, promotion or disciplinary matter, shall disclose whether they are related to, or cohabit with, any Member or Officer who may have an influence on the decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an Officer, disciplinary action.

### **2.2 Support for Appointment**

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council, shall disqualify the candidate concerned in such canvassing for that appointment.

A Member of the Council shall not solicit for any person any appointment at the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

### **2.3 Confidentiality**

The Council, the Executive, a Committee, a Sub-Committee or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under *section 100A of the 1972 Act* where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual Officer are to be discussed.

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

Where the Council proposes to appoint a Head of Paid Service or Statutory Chief Officer, the Head of Paid Service or their delegate will draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed. The post will be advertised and a copy of the statement sent to any person on request.

Where a post has been advertised, the Performance and Appointments Committee will either interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. If no qualified person has applied, the Council will make further arrangements for advertising the post again.

In respect of the interviews for the posts of Statutory Chief Officers, other than the Head of Paid Service, the Performance and Appointments Committee will be advised by the Head of Paid Service.

## **3.0 Appointment**

### **3.1 Power to Appoint**

The Performance & Appointments Committee will be responsible for the function of the appointment of the Head of Paid Service and Statutory Chief Officers. The power to approve the appointment of the Head of Paid Service or Statutory Chief Officers shall be exercised by Council.

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate seniority or an external independent expert or recruitment consultant.

### **3.2 Consultation Procedure for Appointment**

In respect the appointment of non-Statutory Chief Officers and Deputy Chief Officers, an offer of appointment to any of those officer posts must not be made by the Appointor until this statutory consultation process has been complied with.

The Appointor must notify the Monitoring Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including reasons for the choice of the preferred candidate. The Monitoring Officer must notify every Member of the Executive of the Council of the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, together with any other particulars relevant to the appointment. Members of the Executive will have a specified period of time in which to make any objection to the making of the offer to the Leader, for the Leader to notify the Monitoring Officer of such objections. The appointment may not be made until either the Leader has notified the Monitoring Officer that no such objections have been received from Executive Members in the period specified, or the Appointor is satisfied that any objections that were received were either not material or not well founded.

### **3.3 Appointment of Senior Officers**

<b>Post</b>	<b>Appointment</b>	<b>Conditions</b>
Head of Paid Service	Performance and Appointments Committee	Requires Council approval
Chief Financial Officer	Performance and Appointments Committee	Requires Council approval
Monitoring Officer	Performance and Appointments Committee	Requires Council approval
Non-Statutory Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive
Deputy Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive

## **4.0 Disciplinary Action**

### **4.1 Investigation of alleged misconduct**

This paragraph applies to the Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 below relating to the Head of Paid Service and Statutory Chief Officers.

The Council's Performance and Appointments Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Financial Officer or Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any disciplinary action to be taken, as necessary, in accordance with any Council staffing policies which have been adopted by the Council from time to time.

The Head of Paid Service or his nominated representative, will investigate any alleged misconduct in respect of non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council or Publica Group staffing policies, as applicable, which have been adopted from time to time. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, who may or may not be an employee of the Council, or an external independent expert. The nominated representative may, pending the outcome of any investigation, suspend the non-Statutory Chief Officer or Deputy Chief Officer, for no longer than is necessary to investigate the allegations; such suspension will be on full pay other than in exceptional circumstances.

#### **4.2 Head of Paid Service and Statutory Chief Officers**

The Council's Head of Paid Service and Statutory Chief Officers cannot be dismissed by the Authority, unless this procedure has been complied with.

Where an allegation of misconduct in respect of the Head of Paid Service or a Statutory Chief Officer requires an investigation, an Independent Panel will be formed for this purpose. Pending the report of such an Independent Panel the Statutory Officer may be suspended by the Performance and Appointments Committee whilst the alleged misconduct is investigated. Any such suspension will be for a maximum period of 2 calendar months and will be on full pay.

In consulting an Independent Panel to deal with such allegations of misconduct, the Performance and Appointments Committee will invite Independent Persons who have been appointed by the Council for the purposes of the Member's Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council's appointed Independent Persons, then further invitations may be made to Independent Persons appointed by another Council.

The role of the Independent Panel is to investigate the alleged misconduct and prepare a report setting out the conclusions of their investigation, and any other advice, views or recommendations as to any proposed disciplinary or other action, including dismissal. In carrying out their investigation the Independent Panel may inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect and require any Officer or Member of the Council to answer questions concerning the conduct of the relevant Officer.

If the recommendation of the independent Panel is disciplinary action other than dismissal, the Panel will report back to the Performance and Appointments Committee who will consider the report and may impose disciplinary action other than dismissal.

Where the Independent Panel recommends dismissal, or the Performance and Appointments Committee recommend dismissal, the matter must be dealt with by a meeting of the Council. At least 20 working days after the Independent Panel has been



appointed a meeting of the Council will be held to receive the report of the Independent Panel and any recommendations of the Performance and Appointments Committee. The Council must, before taking a vote on whether or not to approve the proposed dismissal, take into account any advice, views or recommendations of the Independent Panel, the conclusions of any investigation into the alleged misconduct and any representations from the relevant Officer or their representative.

A Head of Paid Service or Statutory Chief Officer attending a Council meeting where proposed disciplinary action against them is being considered, is entitled to make both verbal and written representations to Council, as is their representative, who may be a colleague, a Union representative, a Companion or a Lawyer.

### 4.3 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Service	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None
Statutory Chief Officers	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None
Non Statutory Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative

## 5.0 Dismissal

### 5.1 Power to Dismiss

The Council will be responsible for the function of dismissal of the Head of Paid Service and the Statutory Chief Officers as above.

Subject to the consultation process below, the Head of Paid Service or their nominated representative, shall decide upon any disciplinary action following a disciplinary hearing and shall be responsible for the function of dismissal of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may not be the same individual responsible for the investigation into the alleged misconduct and must be wholly independent from that individual.

## **5.2 Consultation Procedure for Dismissal**

The statutory consultation procedure applies to the dismissal of a non-Statutory Chief Officer and Deputy Chief Officer.

Notice of the dismissal of non-Statutory Chief Officers and Deputy Chief Officers must not be given by the Dismissor until the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision. The Monitoring Officer will notify every Member of the Executive of the Council of the name of the person whom the Dismissor wishes to dismiss and the reasons, any other particulars relevant to the dismissal, and the period within which they may object to the dismissal, with such objections being made to the Leader, who shall make them to the Monitoring Officer. Such notice of dismissal may not be served until either the Leader has specified in that period that no such objections have been raised by Executive Members, or the Monitoring Officer has advised the Dismissor that no such objections have been received in the time period, or the Dismissor is satisfied that any objections received from the Leader within that period are not material or not well founded.

## **5.3 Appeals**

Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of disciplinary action against them is wrong or unjust may appeal in accordance with any relevant Staffing Policies to the Head of Paid Service or his nominated representative. The Head of Paid Service's nominated representative may include a Council Officer of the appropriate level of seniority or an external expert, but shall not be the same individual responsible for the disciplinary action or the dismissal, not the same individual responsible for the investigation of alleged misconduct and must be wholly independent from those individuals.

The Head of Paid Service and Statutory Chief Officers shall have no right of appeal against disciplinary action.