



CHILTERN
District Council



CDC Governance and Electoral Arrangements Committee

Wednesday, 22nd February, 2017

At

6.30 pm

**Large & Small Committee Room, King George V House, King George V
Road, Amersham**

Item 6: Review of the Council's Constitution

Appendix 1: Council Procedure Rules

Appendix 2: Cabinet Procedure Rules

Appendix 3: Overview & Scrutiny Procedure Rules

To Follow:

Appendix 4: Access to Information Procedure Rules

APPENDIX 1**SECTION A – COUNCIL PROCEDURE RULES****1. ANNUAL MEETING OF THE COUNCIL****1.1 Timing and order of business**

In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place on such day in April or in May as the Council may fix. ~~Subject to this, the precise date, place and time of the Annual Meeting will be determined at or before the Council Meeting immediately preceding the Annual Meeting.~~

 The Annual Meeting will:-

- 1) elect a person to preside if either the Chairman or Vice-Chairman ~~of the Council~~ is not present;
- 2) deal with any item of business required by law to be transacted before any other item;
- 3) elect the Chairman of the Council ~~for the forthcoming municipal year~~;
- 4) appoint the Vice-Chairman of the Council ~~for the forthcoming municipal year~~;
- 5) approve the minutes of the last meeting ~~of the Council~~;
- ~~5)6)~~ receive any declarations of interest from members
- ~~6)7)~~ receive any announcements from the Chairman and/or Head of the Paid Service;
- ~~7)8)~~ elect the Cabinet Leader;
- ~~8)9)~~ be notified by the Cabinet Leader of appointments to the Cabinet, the allocation of responsibilities to Cabinet Members and appointments to outside organisations carrying out executive functions;
- ~~9)10)~~ establish at least one Overview & Scrutiny Committees and ~~a Standards Committee for the municipal year~~;
~~establish, subject to Article 8 of Part 2 of this Constitution,~~ such regulatory and other committees and sub committees as the Council considers appropriate to deal with matters which by law or by this Constitution are neither Executive functions or reserved to full Council;
- ~~10)11)~~ determine, ~~subject to Articles 6, 8 and 9 of Part 2 of this Constitution,~~ the size

and terms of reference of the committees and sub committees referred to in paragraphs ~~9) and~~ 10) above;

~~11)12)~~ determine the allocation of seats to political groups in accordance ~~with Sections 15 to 17 inclusive of the Local Government and Housing Act 1989~~ (the political balance rules);

~~12)13)~~ receive nominations of councillors to serve on each Committee and appoint the members thereto;

~~13)14)~~ receive nominations of councillors to serve on outside bodies and appoint to those bodies except where appointment to any body or class of body is by law or by this Constitution exercisable by the Cabinet;

~~14) approve the appointment of the independent members and the parish representative to the Standards Committee (in each case by a simple majority); [repealed by the Localism Act 2011]~~

15) approve a programme of ordinary meetings of the Council for the municipal year (if not already agreed); and

16) consider any other items of business set out in the summons convening the meeting.

2. ORDINARY MEETINGS OF THE COUNCIL

2.1 Timing and order of business

Ordinary Meetings of the Council will take place not less than six times in each municipal year in accordance with a programme determined ~~by~~at the Council's ~~Annual Meeting~~. Ordinary Meetings will:-

1) elect a person to preside if either the Chairman and Vice-Chairman is not present;

2) deal with any item required by statute to be dealt with before any other item;

3) to approve ~~as a correct record and sign~~ the minutes of the last meeting ~~of the Council~~;

4) receive any declarations of interest from members ~~arising out of any item set out in the summons convening the meeting~~;

5) receive any announcements from the Chairman, Cabinet Leader or Head of the Paid Service;

6) dispose of any business carried over from a previous meeting;

- 7) receive a presentation from a relevant individual or organisation including Thames Valley Police, as applicable and agreed in advance of the meeting by the Chairman, on a subject area relevant to the work of the Council or pertinent to a current issue for the Council
- 8) receive and consider the reports and recommendations of the Committees of the Council in date order of the meeting. A minute pack of the full set of meetings to be made available separately for members' information
- 9) receive and consider the recommendations of the Cabinet and receive questions and answers on any of those minutes and recommendations in accordance with Rule 8 of these Procedural Rules;
- 10) receive and consider any reports from the Cabinet Leader, Cabinet Members or Chairman of a Committee and receive questions and answers on any of those reports in accordance with Rule 9.1 of these Procedural Rules;
- 11) to receive questions and answers of the Cabinet Leader, Cabinet Members or Chairman of a Committee asked under Rule 9.2 of these Procedural Rules;
- 12) to receive questions without notice from any member of the Council to the Leader, individual Cabinet Members or Committee Chairmen in accordance with Rule 9.1 of the Council Procedure Rules
- 13) to receive petitions and/or deputations from members of the public with the opportunity for members to ask questions of clarification at the discretion of the Chairman
- 14) receive any reports about and receive questions and answers relating to any joint arrangements or external organisations;
- 15) consider motions;
- 16) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Chairman of the Scrutiny Committee for debate; and
- 17) consider any other items of business set out in the summons convening the meeting.

3 EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings.

Those listed below may request the proper officer to call a Council meeting in

addition to an Ordinary Meeting (known as an Extraordinary Meeting):-

- 1) the Council by resolution;
- 2) the Chairman of the Council;
- 3) the Cabinet Leader;
- 4) the Monitoring Officer or Chief Finance Officer; and
- 5) any five members of the Council if they have signed a requisition presented to the Chairman of the Council (and copied to the_ proper officer and the Chairman has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

An Extraordinary Meeting of the Council shall be limited to a single item of business notice of which shall be given in the summons for the meeting

4 **CHANGES IN MEMBERSHIP OF COMMITTEES AND SUB-COMMITTEES**

4.1 Casual Vacancies

The proper officer or such deputy appointed by him/her shall:-

- 1) determine after consultation with Group Leaders the allocation of seats to groups when there is a change in political composition during the term of the Council;
- 2) make and terminate the appointments to committee and sub-committees to reflect the wishes of the political group or party which is entitled to the seats

4.2 Temporary Changes

Temporary changes may be made to the membership of committees as follows:-

- 1) the Democratic & Electoral Services Manager or other officer he/she authorises shall agree temporary changes to membership of Committees submitted by Group Leaders, their deputies or other nominated representative
- 2) the Democratic & Electoral Services Manager is notified in writing or electronic form by 10 am on the day of the meeting;
- 3) the change applies to the entire meeting
- 4) the notification will specify whether the change is for a particular meeting or for a period, the dates for which must be given. The maximum period that can

apply to a change is 3 months

5) temporary changes may be made to Planning Committee and Licensing and Regulation Committee provided that the replacement members have received mandatory training relevant to the committee's functions

6) temporary changes may be made to Senior Appointments Committee provided that the change is applicable to the whole period that the committee is dealing with a particular appointment or other issue

4.3 These rules do not apply to the Appeals and Complaints Committee, Licensing Sub-Committee or the Taxi and Private Hire Licensing Sub-Committee.

4.4 Powers and Duties

Temporary members will have all the powers of any ordinary member of the committee/sub-committee but will not be able to exercise any special duties exercisable by the person they are replacing.

5. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES AND SUB-COMMITTEES

5.1 The Council shall adjourn its annual meeting to enable every committee to appoint a chairman and vice-chairman who shall hold office until the next annual meeting. The Chairman of the Council or in his/her absence the Vice-Chairman of the Council shall preside at the first meeting for the purposes of appointing a chairman.

5.2 Every sub-committee shall at their first meeting after the annual meeting of the Council, appoint a chairman and vice-chairman who shall hold office until the first meeting following the annual meeting of the Council. The chairman of the appointing committee or in his /her absence the vice-chairman of that committee shall preside at the first meeting for the purpose of appointing a chairman.

5.3 If the chairman or vice-chairman are absent from a meeting a chairman for that particular occasion shall be appointed.

5.4 The chairman, vice-chairman or other person presiding may in exceptional circumstances vacate the chair if they feel that to speak strongly on a particular issue would not be compatible with their role as chairman of the meeting. In such circumstances the member concerned may remain in the meeting and participate in the debate. The vice-chairman shall preside or, if necessary another member shall be appointed to take the chair for this particular item.

6. PLACE AND TIME OF MEETINGS

6.1 The place and time of every Ordinary or Extraordinary Meeting will be determined by the proper officer and notified in the summons.

7. NOTICE OF AND SUMMONS TO MEETINGS

7.1 The proper officer will give notice to the public of the date, place and time of any meeting in accordance with the Access to Information Rules ~~set out in this part of the Constitution~~. At least five clear days before a meeting, the proper officer will send a summons ~~signed by him by post~~ to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8. CHAIRING OF MEETING

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

9. QUORUM

9.1 The quorum of a meeting will be one quarter of the whole number of members of the Council. If the meeting does not have a quorum at the time stated in the summons for it to begin the Chairman will wait up to 15 minutes to establish if the meeting has become quorate. If it has not, or if at any time during a meeting the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman, or at the next Ordinary Meeting of the Council.

10. QUESTIONS BY MEMBERS ON THE MINUTES

10.1 A Member of the Council may without notice ask the Cabinet Leader or the Cabinet Member with lead responsibility for the subject matter under consideration or a Committee Chairman any question upon any item in the minutes of the Cabinet or the relevant Committee (as the case may be) when that item is being received or considered by the Council.

11. OTHER QUESTIONS BY MEMBERS

11.1 On the reports of the Cabinet Leader, Cabinet Members and Committee Chairman

A member of the Council may without notice ask the Cabinet Leader or a Cabinet Member or a Chairman of a Committee of the Council any question upon any item in a report of the Cabinet Leader, Cabinet Member or Chairman of a Committee (as the case may be), when that item is being received or considered by the Council.

Notwithstanding the provisions of Rule 14 of these Procedural Rules (rules of debate):-

- 1) the maximum time allocated to questioning of the Cabinet Leader, Cabinet Members and Chairman of a Committee under Rule 11.1 above (known as "Question Time") shall be up to 60 minutes in total; and
- 2) During Question Time the questioner is required to pose his question within two minutes and the respondent will have five minutes to reply. The questioner will have the right to one supplementary question which must be posed within one minute and the respondent will have two minutes to reply.
- 3) Any Member of the Council may also without notice request that the Cabinet Leader or a Cabinet Member or a Chairman of a Committee of the Council presents a report to the next Ordinary Meeting concerning any matter falling within the responsibility of the Cabinet or the terms of reference of the relevant Committee (as the case may be).

11.2 Questions on notice at full Council

Subject to Rule 11.3, a member of the Council may ask:-

- 1) the Chairman of the Council;
- 2) the Cabinet Leader or a Cabinet Member; or
- 3) the Chairman of any Committee or Sub-Committee of the Council;

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

11.3 Notice of questions

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

- 1) he/she has given at least three clear days notice in writing of the question to the proper officer; or
- 2) the question relates to urgent business, the content of the question has been given to the Democratic and Electoral Services Manager~~proper officer~~ by not later than 4.00 p.m. on the day of the meeting and the consent of the Chairman has been received in advance or is given at the meeting.

11.4 Response

An answer may take the form of:-

- 1) a direct oral answer;
- 2) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- 3) where the reply cannot conveniently be given orally, a written answer delivered later to the questioner.

11.5 Supplementary question

A Member asking a question under Rule 11.2 may without notice ask one supplementary question of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

12. MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13 and without prejudice to the additional requirements of Rule 15, written notice of every motion, signed by at least 2 members, must be delivered to the proper officer at least 7 clear working days before the meeting. The proper officer will date and file number each notice of motion. ~~The file and enter it in a book kept for that purpose, which~~ shall be open to public inspection.

12.2 Motion set out in Agenda

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the member giving notice states, in writing, that they-he proposes to move it to a later meeting or withdraw it.

12.3 Scope

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

13 MOTIONS WITHOUT NOTICE

13.1 The following motions may be moved without notice: -

- 1) to appoint a Chairman for the meeting or the remainder of the meeting;
- 2) in relation to the accuracy of the minutes;
- 3) to change the order of business in the agenda;
- 4) subject to the limitation in set out in paragraph (g) below to move a motion

arising out of consideration of an item on the agenda provided the motion is relevant to that item and does not introduce new subject matter;

- 5) that a matter be referred back to a Committee or to an appropriate body or individual;
- 6) that a body be appointed or a person appointed to a body arising from an item on the summons for the meeting;
- 7) to adopt the reports and recommendations of Committees or Officers but a member cannot thereby move a motion or amendment which amends any decision of the Council made under delegated powers;
- 8) to withdraw a motion;
- 9) to amend a motion;
- 10) to proceed to the next item on the agenda;
- 11) that the question be now put;
- 12) to extend the time limit for questions or speeches;
- 13) not to hear further a Member named under Rule 20.3 or to exclude ~~them~~^{him} from the meeting under Rule 20.4 of these Procedural Rules;
- 14) to adjourn a debate;
- 15) to adjourn a meeting;
- 16) to exclude the press and public from the meeting in accordance with the Access to information Rules ~~set out in this Part of the Constitution~~;
- 17) by the Chairman to require a Member to leave the meeting;
- 18) to suspend one or more standing orders;
- 19) to give any consent required by these Procedural Rules; or
- 20) to give the consent of the Council where its consent is required by this Constitution.

14 RULES OF DEBATE

14.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the

purpose of it until the motion has been seconded unless the mover is the Chairman of the meeting.

14.2 Right to require motion in writing

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

14.3 Secunder's speech

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

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed ~~5~~10 minutes without the consent of the Chairman.

14.5 When a member may speak again

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

- 1) to speak once on an amendment moved by another member;
- 2) to move a further amendment if the motion has been amended since he last spoke;
- 3) if his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- 4) in exercise of a right of reply;
- 5) on a point of order; or
- 6) by way of personal explanation.

14.6 Amendments to motions

- 1) An amendment to a motion must be relevant to the motion and will either be:-
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;

- (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words,
 - (v) as long as the effect of (ii) to (iv) is not to negate the motion.
- 2). 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.
 - 3). If an amendment is not carried, other amendments to the original motion may be moved.
 - 4). 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.
 - 5). After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of motion

- 1). A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 2). A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 3). Only alterations which could be made as an amendment may be made.

14.8 Withdrawal of motion

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

14.9 Right of reply

- 1). 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.

- 2). 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.
- 3). The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 Motions which may be moved during debate

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

- 1) to withdraw a motion;
- 2) to amend a motion;
- 3) to extend the time limit for questions and speeches;
- 4) to proceed to the next business;
- 5) that the question be now put;
- 6) to adjourn a debate;
- 7) to adjourn a meeting;
- 8) that the meeting continue beyond 3 hours in duration;
- 9) to exclude the public and press in accordance with the Access to Information Rules; or
- 10) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

14.11 Closure motions

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

- 1) to proceed to the next business;
- 2) that the question be now put;
- 3) to adjourn a debate; or
- 4) To adjourn a meeting.

- 5) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/~~she~~ will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 6) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/~~she~~ will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- 7) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/~~she~~ will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of order

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

14.13 Personal explanation

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

15 PREVIOUS DECISIONS AND MOTIONS

15.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 members.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of full Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 10 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16 VOTING

16.1 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.

16.2 Chairman's casting vote

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

16.3 Show of hands

Unless a recorded vote is demanded under Rules 16.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 Recorded vote

If [5 members] [any Member] present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

16.5 In accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2014 a recorded vote will be taken when the Council makes a calculation of the budget requirement or issues a Council Tax precept under the relevant sections of the Local Government Finance Act 1992.

16.6 Right to require individual vote to be recorded

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

16.7 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.

17 MINUTES

17.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a

correct record. Only the accuracy of the minutes can be discussed and then only by Motion.

17.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting

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

17.3 Form of minutes

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

17.4 Absent Members

If a Member who is unable to attend a meeting wishes to question the accuracy of the minutes of a meeting, he may deliver such question in writing to the proper officer not later than 4.00 pm on the date given in the summons for the meeting at which the minutes are to be approved and the proper officer shall bring the question to the attention of the meeting.

18 RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of every meeting to assist with the record of attendance.

19 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19.1 of these Rules (Disturbance by Public).

20 MEMBERS' CONDUCT

20.1 Respect for the Chairman

When the Chairman rises during a debate, any member then standing must immediately stop speaking and sit down, and the Council must be silent.

20.2 Standing when speaking

When a Member speaks at full Council he must stand and address the meeting

through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 General disturbance

The Chairman may adjourn the meeting for as long as he/she considers necessary if there is a general disturbance which makes orderly business impossible.

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

22. BROADCASTING AND RECORDING

[Requirement introduced by the Openness Regulations 2013]

Audio recording and text based communication shall be allowed at meetings which are open to the public, whether carried out by a member of the public, a representative of the media or a councillor. The Chairman of the meeting may limit the number of mobile electronic devices in use at any time if there is any interference with the Council's own audio visual equipment. Such devices should always be set to their silent or vibrate modes. Filming or photography during proceedings shall only take place with the prior agreement of the chairman who shall announce any

arrangements which has been agreed at the start of the meeting.

23. **DISCLOSABLE PECUNIARY INTEREST**

[Requirement introduced by the Localism Act 2011]

A Member must leave the meeting room or chamber including the public gallery during the consideration of any item of business in which they have a disclosable pecuniary interest, unless they are permitted to remain as a result of a dispensation.

Rules 24, 24a and 25 to be moved to a separate Procedure for Speaking at Planning Committee in Part 5 of the Constitution

[24] REPRESENTATIONS TO THE PLANNING COMMITTEE BY PARISH COUNCILS

When a planning application proposes development within a particular Town or Parish Council's administrative area then that Town or Parish Council may make representations to the Planning Committee immediately prior to the Committee's consideration of that application for the first time, subject to compliance with the following conditions:-

- 1) By not later than 1 July in each year (excluding the year of inception) the proper officer has received notification in writing or by electronic means of the identity of the elected member of the relevant Town or Parish (hereinafter called "the Authorised Representative") who is authorised by that Town or Parish Council to make representations to the Planning Committee on its behalf.
- 2) The notification to the proper officer has included details of the identity of such other elected member of the Town or Parish Council (hereinafter called "the Authorised Alternate") who shall be entitled to make representations to the Planning Committee in the absence of the Authorised Representative;
- 3) Neither the Authorised Representative or the Authorised Alternate are also elected or co-opted members of the Council;
- 4) The Council has already received written representations from the relevant Town or Parish Council on the relevant planning application at the formal consultation stage;
- 5) Notice of each planning application on which the relevant Town or Parish Council intends to make representations has been given to the proper officer in writing or by electronic means at least three working days prior to the meeting of the Planning Committee at which the relevant application is to be considered (including the date of the meeting itself);
- 6) Representations are limited to a maximum of three minutes on any planning application and confined to an explanation of the written representations already made at the formal consultation stage. No questions will be permitted

and the Planning Committee will not engage in a debate although the Chairman of the Planning Committee may seek clarification of any aspect of the representation and may grant an extension of time not exceeding one minute for that purpose. That representations have been made will be recorded in the minutes of the meeting of the Committee

The relevant Town or Parish Council may change its Authorised Representative or Authorised Alternate by giving the Proper Officer notice in writing or by electronic means at any time enclosing a duly authenticated resolution of the Town or Parish Council specifying the identity of the new representative, such notice to become effective seven days after it has been received.

Note – the Proper Officer for the purposes of Rule 24 is the Head of Sustainable Development

24a. REPRESENTATIONS TO THE PLANNING COMMITTEE BY DISTRICT COUNCILLORS WHO ARE NOT MEMBERS OF THE PLANNING COMMITTEE

Any District Councillor who is not a member of Planning Committee may attend and make representations to the Planning Committee immediately prior to the Committee's consideration of that application for the first time (but not vote) subject to compliance with the following conditions:-

- 1) Notice that the District Councillor intends to make representations has been given to the Chairman/Proper Officer;
- 2) Representations are limited to a maximum of five minutes on any planning application – any extension at the Chairman's discretion. That representations have been made will be recorded in the minutes of the meeting of the Committee.

Note – the Proper Officer for the purposes of Rule 24a is the Head of Sustainable Development

25 REPRESENTATIONS TO THE PLANNING COMMITTEE BY MEMBERS OF THE PUBLIC

In addition to the permissive rights conferred on representatives of Town and Parish Councils by Rule 20 of these Procedure Rules, up to two members of the public (for the avoidance of doubt excluding all Town and Parish Councillors) shall also be permitted to make representations to the Planning Committee immediately prior to the consideration of an application for planning permission (whether in outline or in detail) PROVIDED that the person wishing to make representations (in this Rule called "the Representor")

- 1) has already made written representations concerning the application on which he intends to make representations prior to the publication of the Agenda for

the meeting on which that application is to be considered by the Planning Committee for the first time; and

- 2) intends to represent either the supporters of, or the objectors to, that application; and
- 3) has given notice to, the proper officer in writing or by electronic means that he is either a supporter of or an objector to the application and of his intention to make representations thereon; and
- 4) the notice referred to in paragraph 3) above is received by the proper officer or such other person as he shall nominate after the date of publication of the Agenda referred to in paragraph 1) above but not later than three working days prior to the date of the meeting of the Planning Committee (including the date of the meeting itself); and
- 5) no other person has already given a valid notice to the proper officer disclosing an intention to represent the same person(s) or interest(s) as the Representor (meaning that only one supporter of and one objector to the application shall be permitted to make representations to the Planning Committee)

Representations to the Planning Committee shall be limited to a maximum of three minutes and confined to an explanation of the written representations referred to in paragraph 1) above. Questions shall not be permitted and the Planning Committee will not engage in a debate although the Chairman of the Planning Committee may seek clarification of any aspect of the representation and may grant an extension of time not exceeding one minute for that purpose. That representations have been made will be recorded in the minutes of the meeting of the Committee.

Note

The proper officer for the purpose of Rule 25 is the Head of Sustainable Development.]

26. JOINT MEETINGS OF AN OVERVIEW COMMITTEE

26.1 Where any matter, decision or item of business:

- 1) falls within the terms of reference of more than one Overview Committee; or
- 2) in the normal course of procedure would be submitted for separate consideration to more than one Overview Committee; or
- 3) could be the subject of a 'Call-In' in accordance with Rule 11 of the Overview Procedure Rules by the Chairman or Vice Chairman of more than one Overview Committee;

then, subject to the proper officer obtaining the agreement of the Chairman, or in the absence of the Chairman, the Vice Chairman of each such Overview Committee (together called the 'relevant Overview Committees') the matter, decision or item of business may be considered by a joint meeting of the Relevant Overview Committees.

- 24.2** Where agreement has been obtained to the holding of a joint meeting of the relevant Overview Committees the proper officer will convene such joint meeting in compliance with Rule 5 of these Council Procedure Rules.
- 24.3** The first item of business at a joint meeting of the relevant Overview Committee shall be the election of a Chairman for the duration of the meeting and nominations for the office of Chairman shall be limited to the members present holding the office of Chairman or Vice Chairman of the relevant Overview Committees.
- 24.4** Nominations for the appointment of a Vice Chairman for the meeting shall also be limited to the members present holding the office of Chairmen or Vice Chairmen of the relevant Overview Committees with the proviso that the Vice Chairman shall not be a member of the same Overview Committee as the Chairman.
- 24.5** Apart from the right of the Chairman to exercise a second vote no member shall have more than one vote in relation to any motion put to a vote at a joint meeting.
- 24.6** The Overview Procedure Rules set out in this part of the Constitution shall apply to a joint meeting of the relevant Overview Committees with such modifications or amendments as are necessary to give effect thereto.

27 PETITIONS

The Chairman of the Council may formally receive – and debate as necessary - a Petition received in accordance with the adopted Petition Scheme in Part 9.

28 OFFICERS REPORTS

If the Chairman of the Council invites an Officer to present a report, the Council shall resolve itself into a committee to receive and consider such report.

29 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

29.1 Suspension

All of these Council Rules of Procedure except Rule 14.6 and 15.2 may be suspended by motion with 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.

29.2 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.

30 APPLICATION TO COMMITTEES AND SUB-COMMITTEES etc.

30.1 Application to full Council

All of the Council Rules of Procedure (except Rules 24, 24a, 25 and 26) apply to meetings of full Council.

30.2 Application to Committees and Sub-Committees

(1) All of the Council rules of procedure apply to meetings of Full Council. Only Rules 4 to 8, 13, 14 (but not 14.4, 14.5 or 14.9), 16 (but not 16.2), 17 to 23 and 29.2 of these Procedural Rules apply to meetings of committees and sub-committees including ~~the Standards Committee and~~ the Overview Committees. Rule 9 also applies save that the quorum for any Committee or Sub Committee shall be determined by the relevant Terms of Reference set out ~~at Part 3 Section E of~~ in this Constitution.

~~(2) In the case of the Standards Committee or any of its Sub Committees Rule 12 (Rules of Debate) will apply with such modifications as are necessary to give effect to any protocol or procedural rules adopted for the consideration of matters referred to it under the provisions of Sections 64(2) or 71(2) of the Local Government Act 2000. (The Local Determination Framework).~~

~~(23)~~ In the case of Overview Committees Rule 14 will apply with such modifications as are necessary to give effect to any protocols adopted by the Committees for the conduct of investigative reviews.

(4) In the case of the Appeals and Complaints, Licensing & Regulation, Licensing Sub Committee and Taxi and Private Hire Licensing Sub-Committee Rule 14 will apply with such modifications as are necessary to give effect to any protocol or procedural rules adopted for the conduct of appeals or any relevant legislation applying thereto.

(5) Rules 24, 24a and 25 apply only to the Planning Committee

~~(56)~~ Rule 26 applies only to a joint meeting of an Overview Committee.

30.3 Application to the Cabinet

These Procedural Rules will only apply to meetings of the Cabinet to the extent specified in the Cabinet Procedure Rules set out in this part of the Constitution, but not further or otherwise.

APPENDIX 2**SECTION B – CABINET PROCEDURE RULES****1 ROLE AND COMPOSITION****1.1 Role of the Cabinet**

The Cabinet is responsible for the efficient discharge of all Council functions allocated to it by law and this Constitution; see Part 3 of this Constitution for full details. In making decisions the Cabinet will have regard to the principles of decision making set out in Article 12 of this Constitution.

1.2 Composition of the Cabinet

The Cabinet comprises a Cabinet Leader appointed by full Council and five other councillors appointed by the Leader. The Leader may appoint one of the Cabinet Members to act as Deputy Leader. The Leader can remove Cabinet Members from office. In the event of a removal, a replacement Cabinet Member will be appointed for the remainder of the year.

2 CABINET FUNCTIONS AND DECISIONS**2.1 Allocation of Functions**

The Leader may allocate lead responsibility for an individual ~~Executive– Cabinet~~ Function or a combination of such Functions (called “a portfolio”) to Members of the Cabinet as he/she sees fit. The current portfolio allocations are set out in Part 3 of this Constitution.

At the Annual Meeting of the Council, the Leader will present to the Council a report containing the following information concerning the discharge of ~~Cabinet Executive~~ Functions in relation to the coming year :-

- 1) the names, ~~addresses and wards~~ of the Members appointed to the Cabinet and the portfolios allocated to them;
- 2) the constitution and terms of reference of such Committees of the Cabinet as the Leader proposes to convene and the names of the Cabinet Members appointed to them;
- 3) the extent of any authority delegated to Cabinet Members individually, including details of any limitations on their authority;
- 4) the nature and extent of any delegation of a ~~Cabinet Executive~~ Function to any other authority or any joint arrangements including the names of those Cabinet Members appointed to any joint committee for the coming year; and

- 5) the nature and extent of any delegation of a Cabinet n-Executive Function to Officers with details of any limitations on those delegations, and the title of the officer to whom the delegation is made.

2.2 CabinetExecutive Decisions

CabinetExecutive decisions may be made:-

- 1) by the Cabinet as a whole; or
- 2) by the Leader or individual Cabinet Members provided :-
 - the decision is not a Key Decision
 - the class or category of decision directly relates to a function, service or activity for which that Member has lead responsibility; and
 - the Cabinet as a whole has authorised the Member to take decisions of that class or category; or
- 3) by a committee of the Cabinet; or
- 4) by an Officer acting under delegated powers (provided the decision is not a Key Decision unless authorised by a prior resolution of the Cabinet or any other of the provisions of the Constitution); or
- 5) by joint arrangements; or
- 6) by another local authority.

2.3 Sub-delegation of CabinetExecutive Functions

Where the Cabinet or a Committee of the Cabinet is responsible for a Cabinetn-Executive Function, they may in turn delegate that function to an Officer or to joint arrangements.

The delegation of a Cabinet n-Executive Function will not prevent the discharge of that function by the person or body who delegated it.

2.4 The Council's Scheme of Delegations and CabinetExecutive Functions

The Council's Scheme of Delegation to Officers set out in Part 7 of this Constitution (which includes delegations to Officers in respect of Cabinet Executive Functions) will be subject to annual adoption by the Council and the Cabinet in relation to their respective functions. The Cabinet may also amend the Scheme at any time in so far as it relates to a Cabinetn-Executive Function.

2.5 Conflicts of Interest

If ~~any pecuniary or non-pecuniary conflict of~~ interest arises during the consideration of any matter, it will be dealt with in accordance with the Code of Conduct ~~for Elected and Co-opted Members set out~~ in Part 5 of this Constitution.

If, in the exercise of a ~~Cabinet Executive~~ Function that has been delegated to a Committee of the Cabinet or to an Officer, a ~~pecuniary or non-pecuniary conflict of~~ interest arises, then the function will, in the first instance, be exercised by the person or body by whom the delegation was made and otherwise in accordance with the Code of Conduct for Members in Part 5 of this Constitution.

3 CABINET MEETINGS

3.1 The Cabinet will meet not less than six times in the Council year at the dates and times to be determined by the Leader and notified to the Council at its Annual Meeting. The Leader shall be permitted to amend or further amend the time (but not the date) of a meeting of the Cabinet by giving notice to that effect at an ordinary meeting of the Council. The amended meeting time will take effect immediately unless the agenda for the next Cabinet Meeting has been published, in which case the amended meeting time will take effect from the meeting following the next meeting of the Cabinet.

3.2 Notwithstanding the provisions of Rule 3.1 above and subject to compliance with Rules 3.4 and 4.11 below, in cases of urgency the Leader shall be permitted to:-

3.2.1 amend the date of an ordinary meeting of the Cabinet PROVIDED that the Agenda and reports for such meeting are made available to the press and public not less than five clear day before the amended meeting date and that notice of such amended date is posted on the Council's web site ~~and notice board~~;

3.2.2 instruct the Proper Officer to call an extraordinary meeting of the Cabinet.

3.3 If there is insufficient time to consider all the items of business on the Agenda for a meeting, the Leader or other Cabinet Member chairing the meeting shall be entitled to suspend the meeting providing he/she appoints a date within the succeeding seven days when the meeting will be re-convened.

3.4 The Cabinet shall meet at the Council Offices, King George V Road, Amersham, Bucks or at such other location as the Leader shall determine

3.5 The quorum for a meeting of the Cabinet, or a Committee of the Cabinet shall be three

3.6 ~~Cabinet Executive~~ Decisions that have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Council's Access to Information Rules in Part 4 of the Constitution.

- 3.7 Where CabinetExecutive decisions are delegated to a Committee of the Cabinet, the rules applying to CabinetExecutive Decisions taken by them shall be the same as in Rules 3.6 above.

4 CONDUCT OF MEETINGS

- 4.1 If the Leader is present he/she will preside. In the Leader's his absence the Deputy Leader will preside. If the Leader or Deputy Leader are absent, the Cabinet Members present will elect a Chairman from among their number.

- 4.2 All meetings will be open to the press and public in accordance with the Access to Information Rules in Part 4 of the Constitution except when the Cabinet is considering confidential or exempt items of business (as defined by Section 100C of the Local Government Act 1972) and it is in the public interest that such items of business are considered in private.

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

- 1) consideration of the minutes of the last meeting;
- 2) declarations of interest, if any;
- 3) matters referred to the Cabinet (whether by an Overview Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of the Constitution;

- 4) consideration of reports from an Overview Committee;

5) the Cabinet Forward Plan; and

~~5)6)~~ reports from statutory officers in respect of their functions

~~6)7)~~ the items of business set out in the agenda for the Meeting.

- 4.4 The items of business set out in the Cabinet 28 Day Notice and in the Agenda for the Meeting will indicate those which are likely to result in a Key Decision being made.

- 4.5 Reports to the Cabinet from the Leader or a Cabinet Member or an Officer relating to the Budget and Policy Framework will contain details of the nature and extent of consultation with the relevant Overview Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation with the relevant Overview Committee and other stakeholders as appropriate.

- 4.6 The Leader will decide upon the schedule for the meetings of the Cabinet. The

Leader may place any matter on the Agenda of any Cabinet Meeting whether or not authority has been delegated to the Cabinet, or a Committee of the Cabinet or an Officer in respect of that matter, except a matter that falls within the terms of reference of a Committee or Sub-Committee of the Council and which relates to the rights, responsibilities, obligations or duties of any body or person. The Proper Officer will comply with the Leader's request in this respect.

- 4.7 A Cabinet Member may also place a matter falling within his portfolio on the Agenda and the Proper Officer will comply with the Cabinet Member's request in this respect.
- 4.8 The Proper Officer will place an item on the Agenda of the next available meeting of the Cabinet where an Overview Committee or the full Council have resolved that an item be considered by the Cabinet.
- 4.9 In pursuance of their statutory duties, the Monitoring Officer and/or the Chief Finance Officer may, following consultation with each other and the Head of the Paid Service, include an item for consideration on the Agenda of a meeting of the Cabinet and may also, if there is no meeting scheduled in time to consider the matter in question, require the Proper Officer to convene such a meeting.
- 4.10 In other circumstances, where the Chief Executive or any of the Directors are of the opinion that a matter relating to an Executive function requires a decision, they may include an item on the Agenda of a meeting of the Cabinet and if there is no meeting scheduled in time to consider the matter in question, may require the Proper Officer to convene such a meeting.
- 4.11 Subject to the provisions of these Rules, the following Council Procedure Rules shall, with such modifications as are necessary to give effect to them, apply to meetings of the Cabinet :-
- 1) Rule 5 ;
 - 2) Rules 11 and 12;
 - 3) Rule 13.1 (save that a motion or amendment to rescind a decision taken within the last six months shall be only be valid if carried unanimously)
 - 4) Rules 14 to 17;
 - 5) Rules 19 and ~~23~~5 (excluding Rule ~~23~~5.2).

5 REPRESENTATIONS BY NON CABINET MEMBERS

- 5.1 At a meeting of the Cabinet a Member who is not a Member of the Cabinet may make representations to the Cabinet immediately prior to the consideration of an item for decision which either affects his ward or in respect of which he has some specialist or technical knowledge, subject to the following conditions :-

- 1) Notice of the item for decision upon which the Member wishes to make representations is given to the Proper Officer either verbally, in writing or by electronic means at least one hour before the meeting at which the matter is to be considered commences;
 - 2) Representations are limited to five minutes; and
 - 3) When a Member has completed making his representations no further representations from the Member on that matter will be considered.
- 5.2 The Cabinet will not engage in a debate although the Leader or a Cabinet Member may seek explanation or clarification of any aspect of a representation within the five minute period and may grant an extension of time not exceeding two minutes for that purpose.
- 5.3 In order to facilitate the efficient conduct of business the Leader or other Cabinet Member chairing the meeting will have the discretion to limit the total number of representations on any matter.

6 DECISIONS MADE OTHER THAN AT MEETINGS OF THE CABINET

- 6.1 If the Leader or a Cabinet Member to whom individual decision making powers has been delegated by the Cabinet makes a decision in pursuance of those powers they shall :-
- 1) Do so in compliance with Article 12.2 of this Constitution (Principles of decision making);
 - 2) Do so in compliance with the Access to Information Rules in Part 4 of this Constitution;
 - 3) Forthwith cause a written record of the decision to be made to include a statement of the reasons for making the decision and the alternative options considered or rejected;
 - 4) As soon as is practicable but in any event not later than 24 hours after the decision has been made, notify the Proper Officer of the decision and provide him with a copy with the written record; and
 - 5) Comply with any Protocol from time to time approved for use in connection with the exercise of individual decision making powers by the Leader or Cabinet Members.
- 6.2 The Proper Officer will publish such decisions and notify the Chairmen and Vice-Chairmen of the Overview Committees in accordance with the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution and shall report to the next available

meeting of the Cabinet as an information item all decisions notified under Rule 6.1.3) above.

- 6.3 Key Decisions will continue to be made by the Cabinet collectively and nothing in this Rule shall be considered as authorizing or permitting the making of a Key Decision by the Cabinet or a member of the Cabinet acting as an individual.

7. **POLICY ADVISORS**

- 7.1 Cabinet Members may appoint at their discretion other Members of the Council, not limited to members of the majority group, to advise and assist them with:
- a) the discharge of their functions,
 - b) the development of policy,
 - c) other matters of current interest
- 7.2 Different Policy Advisors may be appointed to cover particular areas of activity. Policy Advisors can only act in an informal capacity and cannot exercise executive functions individually or collectively
- 7.3 Policy Advisors may be Members of an Overview and Scrutiny Committee whose remit includes the activities of the portfolio they are assisting with, providing there is not a significant conflict of interest and they do not scrutinise a decision in which they have been actively involved
- 7.4 Policy Advisors will serve for a maximum of 12 months, ending at the annual Council meeting but may be re-appointed by the relevant Cabinet Members for a further period
- 7.5 The Chairman of a Policy Advisory Group can be any member of the respective PAG
- 7.6 Policy Advisory Groups will normally meet in the absence of the press and the public, but will be open to any elected member
- 7.7 Policy Advisory Groups will meet as and when required but normally once each cycle before Cabinet. The relevant Cabinet Member will agree with officers before the despatch of the meeting agenda what information should be kept confidential and the extent of that confidentiality. For example, it may be decided that whilst information can be released to the wider Council membership and relevant officers, it should not be divulged to the press and public. Alternatively, depending upon the subject matter, it may be decided that the issues discussed at the Group meetings can be made more publicly available. It may be that there will be a division between what information can be released and what should be kept confidential.

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- 7.8 The Democratic and Electoral Services Manager will be advised of the establishment, membership and chairman (and any mid-term changes in membership) of each Policy Advisory Group and shall maintain a record of such.

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APPENDIX 3

SECTION C - OVERVIEW & SCRUTINY PROCEDURE RULES

1 APPLICATION OF RULES

These Rules apply to the Overview Committees of the Council and any ad hoc Sub-Committees of an Overview Committee

2 COMPOSITION AND TERMS OF REFERENCE

The composition and terms of reference of the Overview Committees of the Council are more particularly described in Article 7 and ~~Section E of~~ Part 3 of this Constitution.

3 MEETINGS

3.1 There shall be at least six Ordinary Meetings of each Overview Committee in the Council year. In addition, the Chairman of an Overview Committee and/or three or more members of an Overview Committee may request the Proper Officer to convene an Extraordinary Meeting to consider any matter falling within the Committee's terms of reference. The Proper Officer will comply with that request unless he considers that the matter can be dealt with at the next Ordinary Meeting.

3.2 The quorum for meetings of an Overview Committee shall be five.

3.3 The Chairman and Vice-Chairman of each Overview Committee will be appointed ~~by full Council at the Annual Meeting~~ in accordance with the Council Procedure Rules.

3.4 Meetings will be conducted in accordance with the Council Procedure Rules to the extent provided by Rule 30.2 of those Rules.

3.5 All meetings will be in public in accordance with the Council's Access to Information Rules ~~set out in Part 4 Section D of this part~~ of the Constitution except when confidential or exempt items of business (as defined in Section 100C of the Local Government Act 1972), are under consideration.

4 WORK PROGRAMME

Each Overview Committee will be responsible for setting its own work programme and in so doing so they shall have particular regard to the views of those members of the Committee who are not members of the largest party group on the Council.

5 AGENDA ITEMS

5.1 Any member of an Overview Committee shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of that Committee to be included on the agenda for the next available meeting of the Committee. On receipt

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of such a request the Proper Officer will ensure that it is included on the agenda for the next available meeting.

- 5.2 Any five or more members of the Council who are not members of a particular Overview Committee may give written notice to the Proper Officer that they wish an item relevant to the functions of that Overview Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the agenda for the next available meeting.
- 5.3 An Overview Committee shall also consider any request from full Council or the Cabinet to review any area of Council activity falling within its Terms of Reference and shall adjust their work programme to the extent necessary to carry out such a review. If the review was requested by the Cabinet, the reporting back of the findings of the review will be in accordance with Rule 7 below. If the review was requested by full Council, the Chairman of the Overview Committee responsible for carrying it out will report the findings in writing to full Council by providing a copy of the report to the proper officer who shall include the report on the agenda for the next available meeting of the Council in accordance with the Council Procedure Rules. Full Council will resolve itself into a committee to consider any such report.
- 5.4 With the prior consent of the Cabinet Leader or relevant Cabinet Portfolio Holder an Overview Committee may consider a report relating to the discharge of a ~~Cabinet~~ ~~Executive~~ Function prior to the matter being considered by the Cabinet. In addition, with the consent of the Cabinet Leader or relevant Cabinet Portfolio Holder and the Chairman of the relevant Overview Committee an Officer may include a report relating to the discharge of a ~~Cabinet~~ ~~Executive~~ Function on the agenda for a meeting of an Overview Committee prior to the matter being considered by the Cabinet.
- 5.5 Where a report is considered by an Overview Committee prior to the matter being considered by the Cabinet in accordance with Rule 5.4 above :-
- 1) Rule 11 below (Call-In) shall no longer apply to any decision subsequently made by the Cabinet on that report;
 - 2) if such report would normally be received by the Overview Committee after a decision on it has been taken by the Cabinet due to the application of Rule 3 of the Budget & Policy Framework Procedure Rules, the Overview Committee may resolve not to receive a report on that matter after a decision on it has been taken by the Cabinet or only to receive a report on the matter if the Cabinet depart from any of the recommendations of the Committee in a material particular; and
 - 3) Rule 7 below shall not apply and the Cabinet will be notified of the recommendations of the Overview Committee by the Proper Officer appending

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a copy of the minutes of the Committee to the officer's report or tabling a copy of the minutes at the meeting of the Cabinet.

- 5.6 The Overview Committee relevant to the subject matter will receive and consider Petitions received as set out in the adopted Petitions Scheme in Part 9 - in particular hearing evidence from senior officers.

6 POLICY DEVELOPMENT AND REVIEW

- 6.1 The role of an Overview Committee in relation to the development of the Council's budget and policy framework is more particularly described in the Budget and Policy Framework Procedure Rules ~~in Part 4 set out at Section E of this Part~~ of the Constitution.

- 6.2 The role of an Overview Committee in the development and review of policies falling outside the Budget and Policy Framework Procedure Rules is more particularly described in Article 7.3.3) and the Terms of Reference of each Overview Committee is ~~in set out at Section E of~~ Part 3 of this Constitution. In summary an Overview Committee may assist full Council or the Cabinet in the development and formulation of policy, including conducting research and consultation, if requested to do so.

7 REPORTS FROM OVERVIEW COMMITTEES TO THE CABINET

- 7.1 Once an Overview Committee in exercise of its overview and scrutiny role has formed a recommendation in relation to any matter falling within its terms of reference and which relates to a ~~Cabinet Executive~~ Function, the Chairman will prepare a formal report (called a "Chairman's Report") and submit it to the Proper Officer for consideration by the Cabinet. The Proper Officer will, subject to Rule 7.3 below, place it on the agenda for the next available meeting of the Cabinet in accordance with the Cabinet Procedure Rules.

- 7.2 If three or more members of an Overview Committee do not agree with the recommendations in a Chairman's Report then up to one minority report may be prepared (called a "Minority Report") and submitted to the Proper Officer for consideration by the Cabinet. The Proper Officer will, subject to Rule 7.3 below, place it on the Agenda for the next available meeting of the Cabinet in accordance with the Cabinet Procedure Rules.

- 7.3 The Cabinet will consider the Chairman's Report and any Minority Report ~~at the next scheduled meeting of the Cabinet within one month of it being submitted to the Proper Officer. If necessary, the proper officer shall exercise his powers under the Cabinet Procedure Rules to convene a meeting of the Cabinet in order that a report can be considered by the Cabinet within the time scale imposed by this Rule.~~

- 7.4 If for any reason the Cabinet fails to consider a Chairman's Report or any Minority Report at the meeting of the Cabinet, the agenda for which includes those reports,

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they will stand referred for discussion at the next Ordinary Meeting of full Council. Full Council will resolve itself into a committee to consider the reports.

- 7.5 Once a Chairman's Report and any Minority Report has been considered by the Cabinet, the Cabinet Leader or Cabinet Member with lead responsibility for the ~~Cabinet Executive~~ Function the subject of such report, will respond in writing (called a "Cabinet Response") to the Chairman of the Overview Committee that submitted the Chairman's Report and provide a copy to the Proper Officer, giving the concluded views of the Cabinet thereon. The Proper Officer will place the Cabinet Response on the agenda for the next available meeting of that Overview Committee.
- 7.6 An Overview Committee that meets to consider a Cabinet Response may require the Cabinet Member who prepared the Cabinet Response to appear before it to answer questions. If the Overview Committee is dissatisfied with the Cabinet Response for any reason they may resolve that the matter be referred to the next Ordinary Meeting of full Council for final determination. Full Council will resolve itself into a committee when considering such a referral.

8 RIGHTS OF OVERVIEW COMMITTEE MEMBERS TO DOCUMENTS

- 8.1 In addition to their rights as Members of the Council, Members of an Overview Committee will have the additional rights to documents and to notice of meetings of the Cabinet described in the Access to Information Rules set out in ~~Part 4 Section D of this Part~~ of the Constitution.

9 MEMBERS AND OFFICERS GIVING ACCOUNT

- 9.1 An Overview Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions falling within its Terms of Reference. In addition to reviewing documentation, it may require the Cabinet Leader and any Member of the Cabinet, the Head of the Paid Service and any Director or Head of Service to attend before it to explain, in relation to matters within their remit :-
- 1) any particular decision or series of decisions;
 - 2) the extent to which the actions taken implement Council policy; and/or their performance;
 - 3) and it is the duty of those persons to attend if so required.
- 9.2 Where any Member or officer is required to attend an Overview Committee under this provision, the Chairman of that Committee will notify the Proper Officer in writing. The Proper Officer will then notify the Member or officer concerned giving at least 7 days notice of the meeting at which he is required to attend. The notice will state the nature of the item on which he is required to attend to give account and

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whether any papers are required to be produced for the Committee. Where the account to be given to the Committee would require the preparation of a report, then the Member or officer concerned will be given sufficient notice to allow for this to be done.

- 9.3 Where, in exceptional circumstances, a Member or officer is unable to attend on the required date, then the Overview Committee or Sub-Committee shall in consultation with the Member or officer concerned, arrange an alternative date for attendance to take place within a maximum of six weeks from the date of the original request.

10 ATTENDANCE BY OTHERS

- 10.1 An Overview Committee may invite persons other than those referred to in Rule 9 above to address it and/or answer questions. This shall not extend to officers below Head of Service level without the agreement of the Head of Paid Service or relevant Director.

11 CALL-IN

- 11.1 When a Cabinet Decision is made by the Cabinet, a Cabinet Member or a Committee of the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, such decision will be published by electronic means in a notice specifying when the decision will come into force and be implemented unless it is called-in, the Proper Officer shall cause the decision to be published, where possible by electronic means, and a copy shall be available for inspection at the Council Offices during normal opening hours, within four working days of the decision being made.

- 11.2 ~~The Proper Officer will notify the Chairman and Vice-Chairman of each Overview Committee of the decisions referred to in Rule 11.1 above within the time scales set out therein.~~ Such notice will include a ~~copy of~~ the record of the decision, ~~bear~~ the date on which it was published and will, unless the decision is an urgent decision falling within Rule 12 below, specify that the decision will come into force and may then be implemented on the expiry of 5 working days ~~seven days~~ after the date of publication, unless the Chairman or Vice-Chairman of the relevant Overview Committee objects to it by written notice (including ~~fax or~~ e-mail) to the Proper Officer received before 4.00 p.m. on the fifth working day ~~seventh day~~ after the publication of the decision (a "Notice of Call-In"). In the case of Notice of Call-In sent to the Proper Officer by ~~fax or~~ e-mail, the Proper Officer shall record the date and time of receipt on the Notice and that record shall stand as conclusive proof of the date and time of receipt thereof.

- 11.3 A Notice of Call- In shall not be valid unless:-

- 1) the decision the subject of the Notice of Call In is a Key Decision;
- 2) on its face, the Notice of Call-In identifies a failure by the decision maker to comply with Article 12.2 of this Constitution (Principles of decision making), or

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a breach of some other provision of this Constitution; and

- 3) the Notice of Call-In identifies the manner in which the decision maker is alleged to have failed to comply with Article 12.2 or breach of some other provision of this Constitution.

11.4 The validity of a Notice of Call-In shall be determined by the relevant Overview Committee as a preliminary issue.

11.5 If the Proper Officer receives a Notice of Call-In he/she shall convene an Extraordinary Meeting of the relevant Overview Committee within ~~fifteen working days~~^{twenty-one} days of receipt of a call-in notice to consider as the sole item of business, the decision the subject of the Notice of Call-In, unless an ordinary meeting of the Committee or Sub-Committee is scheduled to take place within that period, in which case the matter the subject of the Notice of Call-In will be added to the Agenda for the Ordinary Meeting and taken as an urgent item if necessary. At the same time the Proper Officer will notify the Cabinet, Committee of the Cabinet or Officer (as the case may be) enclosing a copy of the Notice of Call-In. Until the matter has been considered by the relevant Overview Committee and, unless the Overview Committee resolve that it is content with the decision, the decision the subject of the Notice of Call-In may not be implemented before the decision making body or person has reconsidered the decision having regard to the views of the Committee.

11.6 Notification to the Cabinet by the Proper Officer under Rule 11.4 shall be to the Cabinet Leader or relevant Cabinet Portfolio Holder and shall stand as an invitation (but not a requirement) to the recipient to attend.

12 CALL-IN AND URGENCY

12.1 The call-in procedure set out in Rule 11 above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be regarded as urgent if a delay in implementation would lead to a loss of income, or result in unnecessary expenditure, or otherwise prejudice the Council's interests.

12.2 The record of a decision made by the Cabinet or a Committee of the Cabinet, or a Key Decision made by an Officer with delegated powers shall state whether, in the reasonable opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to the call in procedure set out in Rule 11 above. The decision maker shall not be permitted to mark a record of the decision as urgent unless he has first obtained the consent of the Chairman of the relevant Overview Committee or if he is absent or otherwise unavailable his Vice-Chairman or if he/she is unable to act, the Chairman of the Council.

12.3 Where a decision is regarded as urgent for the reason that a delay in implementation would lead to a loss of income or result in unnecessary expenditure, the request to the Chairman of the relevant Overview Committee shall make it clear the level of the predicted loss of income or unnecessary expenditure likely to be incurred.

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- 12.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

13 THE PARTY WHIP

~~13.1 Political party whips will not be applied to the functions of Overview Committees. In this Rule 'the party whip' shall mean any instruction given by or on behalf of a party group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before full Council or any of its Committees or Sub-Committees, or the application or threat to apply any sanction by the group in respect of that councillor should he speak or vote in any particular manner.~~

~~13.2 When considering any matter in respect of which a member of an Overview Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the consideration of the matter. The declaration, and the details of the whipping arrangements, shall be recorded in the minutes of the meeting.~~

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14 PROCEDURE AT OVERVIEW COMMITTEE MEETINGS

- 14.1 An Overview Committee shall consider the following business in the following order:-

- 1) minutes of the last meeting;
- 2) declarations of interest (including pecuniary and non-pecuniary interests ~~personal, prejudicial and whipping declarations~~);
- 3) consideration of a Cabinet Response to a Chairman's or Minority Report; and
- 4) the business otherwise set out on the agenda for the meeting.

- 14.2 Where an Overview Committee is conducting a review or investigation and has required a member of the Cabinet or an Officer to appear before it, or has requested a member of the public or other third party to attend to give evidence, the following principles will be observed :-

- 1) the review or investigation will be conducted fairly and all members of the Committee will be given the opportunity to speak and question attendees;
- 2) that those assisting the Committee by giving evidence will be treated with respect and courtesy; and
- 3) that the review or investigation will be conducted so as to maximise the efficiency of the review or investigation.

- 14.3 In consultation with the other Overview Committees an Overview Committee shall be

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able to adopt such other codes and protocols for the proper conduct of Call-Ins and other scrutiny investigations as it sees fit provided they are not inconsistent with any of the Rules comprised in Part 4 of this Constitution. Having adopted such codes or protocol as aforesaid an Overview Committee shall comply with them as if they were part of these Rules and printed out herein unless the Committee otherwise resolves.

~~*[Legislation superseded]*~~

~~14.4—The Overview and Scrutiny Committee may require information from and for~~

~~— a) any person to attend from any partner authority designated in Section 104 of the Local Government and Public Involvement in Health Act 2007 as amended from time to time ; or~~

~~— b) any officer or employee of a responsible authority or a co-operating person or body as defined by section 5 of the Crime and Disorder Act 1988 in relation the scrutiny of a crime and disorder function~~

14.4 A member who has raised a matter referred to an Overview Committee may attend the meeting of the Committee where the matter is discussed unless the matter to be discussed includes confidential or exempt information. The Committee will in any event notify the relevant member of its decision and the reasons for it - subject the exclusion of confidential or exempt information.

~~14.5—In relation to scrutiny of a crime and disorder function—additional members may be co-opted if they are an employee, officer or member of a responsible authority or co-operating person or body—but shall only be able to vote if the Committee so permit.~~

14.5 Where the Overview Committee completes its consideration of a matter it will decide whether to make any recommendations to Cabinet/Council/publish its report.

~~— b. with regard to CCfA matter—report/make recommendations in accordance with the Local Government Act 2000 as amended~~

~~— c. in relation to a crime and disorder matter—comply with the reporting requirements under the Police and Justice Act 2006—as amended.~~

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