



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 5: Budget and Policy Framework
Procedure Rules**
- **Appendix 6: Employment Procedure Rules**

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APPENDIX 5

SECTION E -BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1 THE FRAMEWORK FOR EXECUTIVE DECISIONS

1.1 The Council will be responsible for the adoption of its Budget and Policy Framework as defined in Article 4 of this Constitution. Once a budget or a Policy Framework is in place it will be the responsibility of the Cabinet to implement it. The Cabinet will have the power to amend, modify, vary or revoke the Policy Framework to the extent permitted by Rule 7 below.

In these Rules the definitions set out in the left hand column of the table below shall have the meaning ascribed to them in the right hand column and the terms "Budget and Policy Framework" or "Budget or Policy Framework" shall be construed accordingly:-

Definition	Meaning
Budget	<ul style="list-style-type: none"> • The allocation of financial resources to different functions, services or projects; • Establishing and maintaining a contingency fund of any description; • Determining the Council Tax base; • Setting the Council Tax; • Decisions relating to the Council's investment policies; • Decisions relating to the control of the Council's borrowing requirement; • Decisions relating to the control of capital or revenue expenditure; and • The setting of virement limits.
Policy Framework	<p>The following plans and strategies:-</p> <ul style="list-style-type: none"> • Council Key Objectives • Chiltern Sustainable Community Strategy • Corporate Plan • Vision for Chiltern in 2026 • Plans and Strategies which together comprise the Local Development Plan

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<p>time as necessary</p>	<ul style="list-style-type: none"> ● Joint Waste Strategy for Buckinghamshire ● Chiltern Community Cohesion Plan ● Housing Strategies and policies comprising the Housing Strategy, Private Sector Housing Strategy (including Housing Grants, Flexible Home Loans and HMO (Houses in Multiple Occupation) Licensing Policy), Homelessness Strategy, Empty Homes Strategy and the annual HSSA (Housing Strategy Statistical Appendix). ● Budget Strategy ● Buckinghamshire Local Area Agreement ● Treasury Management Strategy ● Risk Management Strategy ● Information Strategy ● Procurement Strategy ● Statement of Principles under the Gambling Act 2005 ● Licensing Policy under the Licensing Act 2003 ● Taxi and Private Hire Licensing Policy ● Food Enforcement Policy ● Food Business Plan ● Health and Safety Enforcement Plan ● Health and Safety Business Plan ● Air Quality Strategy ● Contaminated Land Strategy ● Asset Management Plan ● Open Space and Recreation Strategy ● Regulators Compliance Code ● Fuel Poverty and Warmth Strategy ● Supporting People Strategy ● Supported Housing Strategy ● Older Peoples Strategy ● Chiltern District Community Safety 3 year Partnership Plan ● Any other plan or strategy which the Council from time to time determines shall be adopted or approved by the Council.
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2 ~~ROLE OF THE CABINET IN THE BUDGET AND POLICY FRAMEWORK~~

~~2.1 Full Council will be responsible for the adoption of the Council's Budget and Policy Framework. Once a Budget or Policy Framework is in place it will be the responsibility of the Cabinet to implement it. The Cabinet will have the power to amend, modify, vary or revoke the Policy Framework to the extent permitted by Rule 7 below.~~

3 ~~PROCESS FOR DEVELOPING THE BUDGET AND POLICY FRAMEWORK~~

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- 3.1 After consulting with the community and other stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draft initial proposals in relation to any plan, strategy or budget which forms part of the Council's Budget and Policy Framework.
- 3.2 When the initial proposals in relation to any such plan strategy or budget have been drafted by the Cabinet, the proper officer will forthwith serve a copy on the Chairman of the Overview Committee that has responsibility for scrutinising the draft plan strategy or budget under consideration ("the relevant Overview Committee") (unless the relevant Overview Committee has already considered the initial proposals in accordance with Rule 5.4 of the Overview & Scrutiny Procedure Rules set out at Part B of Section 4 of this Constitution) and notify him of the dates and/or proposed timetable within which the Cabinet intend to develop the proposal and submit them to full Council for approval.
- 3.3 The interval between the date of the initial proposals and the next consideration of them by the Cabinet will be not less than six weeks, in order that the relevant Overview Committee may exercise the powers conferred on it by Rule 3.4 below unless the relevant Overview Committee resolves to approve the draft plan strategy or budget under consideration without amendment or resolves to make no comment thereon, in which case the matter may be referred to full Council for approval
- 3.4 In order to consider whether to respond to the initial proposals of the Cabinet and whether any consultation by the relevant Overview Committee, in addition to any consultation carried out by the Cabinet, is necessary, the proper officer will convene an extraordinary meeting of the relevant Overview Committee within 21 days, unless an ordinary meeting is scheduled to take place not less than 7 or more than 21 days from the date that the proper officer gave the Chairman of the relevant Overview Committee notification of the initial proposals of the Cabinet.
- 3.5 If the relevant Overview Committee determines to respond and/or to carry out any further consultation, it will make its recommendations to the Cabinet (reflecting any representations made to it as a result of further consultation) by the date, or in accordance with the timetable, indicated in the notice served on the Chairman by the proper officer.
- 3.6 The Cabinet will finalise its proposals for consideration by full Council taking into account the recommendations (if any) of the relevant Overview Committee. The report to full Council will include the Cabinet's response to those recommendations and the extent to which they have been accepted by the Cabinet.
- 3.7 Full Council will consider the final proposals of the Cabinet and may:-
 - 1) adopt them with or without amendment;
 - 2) refer them back to the Cabinet for further consideration; or

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- 3) substitute its own proposals in their place.
- 3.8 When full Council resolves to adopt any budget, policy strategy or plan the subject of these Rules the decision will be publicised in accordance with the Access to Information Rules set out at Section D of this part of the Constitution and a notification of the decision shall be served on the Cabinet Leader by the proper officer. The notice of decision shall be dated and shall state either:-
- 1) that the decision is effective immediately; or
 - 2) that the decision will become effective on the expiry of 14 days after the publication of the notice of decision, unless the Cabinet Leader formally objects in that period.
- 3.9 If the Cabinet Leader objects to the decision of full Council, he shall give written notice to the proper officer to that effect prior to the date upon which the decision is to be effective and give reasons for the objection. The proper officer shall convene an Extraordinary Meeting of full Council to reconsider its decision as the sole item of business and the summons for the meeting shall include details of the objection of the Cabinet Leader to the decision. The decision shall not be effective pending the outcome of the meeting.
- 3.10 The Extraordinary Meeting shall take place within 21 days of the date that the Cabinet Leader gave notice of his objection to the proper officer. Full Council will resolve itself into a committee to reconsider its decision in the light of the objections and shall make a final decision by a simple majority. The decision shall then be made public in accordance with the Access to Information Rules set out at Section D of this part of the Constitution and shall be implemented immediately.

4 DECISIONS TO BE IN ACCORDANCE WITH BUDGET AND POLICY FRAMEWORK

- 4.1 Subject to any provisions concerning virement between budget heads contained in the Financial Procedure Rules set out at Section F of this part of the Constitution, all decisions made in the discharge of a ~~Cabinet~~~~Executive~~ Function (called an "~~Cabinet~~~~Executive~~ Decision") shall be in accordance with the Budget and Policy Framework unless otherwise authorised by the terms of this Constitution.
- 4.2 A ~~Cabinet~~~~Executive~~ Decision which is contrary to or not wholly in accordance with the Budget and Policy Framework approved by full Council and is not otherwise authorised by the terms of this Constitution shall only be made by full Council. Cases of doubt or difficulty shall be referred to the Monitoring Officer and/or Chief Finance Officer for advice.
- 4.3 If the Cabinet or a Committee of the Cabinet or a joint Committee or an Officer with delegated powers to discharge a ~~Cabinet~~~~Executive~~ Function want to make an ~~Cabinet~~~~Executive~~ Decision which is contrary to or not wholly in accordance with the Budget and Policy Framework and is not otherwise authorised by the terms of this

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Constitution, the decision will be referred to the next ordinary meeting of full Council for determination, unless it is urgent in accordance with Rule 5 below.

5 URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

5.1 Notwithstanding that a ~~Cabinet-Executive~~ Decision may be contrary to the Budget or Policy Framework and is not otherwise authorised by the terms of this Constitution, the body or person who, but for the provisions of Rule 4 above would be able to make the decision, shall nevertheless be entitled to do so in the following circumstances :-

- 1) the decision can reasonably be regarded as urgent; and
- 2) it is not practical to convene a quorate meeting of full Council; and
- 3) the Chairman of the relevant Overview Committee or if he is unable to act, the Chairman of the Council, or in his absence the Vice-Chairman of the Council, provide a written statement agreeing that the decision is a matter of urgency.

5.2 A decision shall not be regarded as urgent under this Rule unless a failure to make the decision would lead to a loss of income, or result in unnecessary expenditure, or otherwise prejudice the Council's interests.

5.3 The reasons why it was not practical to convene a quorate meeting of full Council and why the Chairman of the relevant Overview Committee or the Chairman or Vice-Chairman of the Council agreed to a ~~Cabinet-Executive~~ Decision being made as a matter of urgency shall be noted on the record of the decision.

5.4 Following the making of an urgent ~~Cabinet-Executive~~ Decision, the decision maker shall report to the next Ordinary Meeting of full Council, explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6 CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

6.1 Where an Overview Committee is of the opinion that a ~~Cabinet-Executive~~ Decision is, or if made and implemented, would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget and is not otherwise authorised by the terms of this Constitution, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

6.2 The Monitoring Officer or Chief Finance Officer shall give their opinion in a report which shall be sent to the ~~Cabinet~~ Leader and the Chairman of the relevant Overview Committee and copied to all councillors. If the ~~Cabinet-Executive~~ Decision the subject of the report has not been made, or if made, has not been implemented or only partially implemented, such decision shall not be made, implemented, or further

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implemented (as the case may be), pending consideration of the matter by the Cabinet and/or full Council in accordance with Rules 6.3 and 6.4 below, unless the opinion in the report is that the decision is within the Budget and Policy Framework or is authorised by any other of the terms of this Constitution.

6.3 In the event that the report of the Monitoring Officer and/or Chief Finance Officer concludes the ~~Cabinet~~~~Executive~~ Decision under consideration is, or if made and implemented, would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget and is not otherwise authorised by the terms of this Constitution :-

- 1) the ~~Cabinet~~ Leader shall convene an Extraordinary Meeting of the Cabinet within the period of 7 days following the date of the report, unless an Ordinary Meeting of the Cabinet is scheduled within that time;
- 2) the Cabinet shall, in accordance with Rule 6.4 below, consider what action it intends to take in the light of the advice given in the report; and
- 3) the proper officer, or (if no Officer was present at the meeting) the Cabinet Leader, shall ensure that a copy of the record of any decision made by the Cabinet in this regard is given to the Chairman of the relevant Overview Committee, the Monitoring Officer and the Chief Finance Officer.

6.4 Having considered what action it intends to take, the Cabinet shall resolve as follows

- 1) if the decision has not been made :-
 - (i) to not make the decision; or
 - (ii) to refer the matter to full Council for a determination;
- 2) if the decision has been made, but not implemented:-
 - (i) to not implement the decision; or
 - (ii) to refer the decision to full Council for a determination;
- 3) if the decision has been made, but only partly implemented:-
 - (i) to not implement the decision further; or
 - (ii) to refer the decision to full Council for a determination;

6.5 If the Cabinet resolves that the matter be referred to full Council for a decision, the proper officer shall convene an Extraordinary Meeting of the Council within 21 days of the date of the resolution of the Cabinet, unless an Ordinary Meeting of the Council is scheduled to take place within that time, in which case the matter will be placed on the agenda for the Ordinary Meeting.

6.6 At the meeting full Council will receive the report of the Monitoring Officer and/or the Chief Finance Officer and shall resolve itself into committee to consider the

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matter. The Council shall either:-

- 1) endorse the decision or proposed decision as one falling within the existing Budget and Policy Framework, or otherwise authorised by the terms of this Constitution; or
- 2) amend the relevant budget, strategy, plan or policy, so as to bring the decision or proposed decision within the Budget and Policy Framework and to ratify the decision if already made; or
- 3) so far as permitted by law, amend the Articles of this Constitution or any of the Rules contained in this part of the Constitution so as to otherwise authorise or ratify the decision or proposed decision; or
- 4) authorise the proposed decision, or ratify the decision if already made, without making any amendments to the Budget and Policy Framework, or amending the Articles of this Constitution or any of the Rules contained in this part of the Constitution; or
- 5) agree that the decision or proposed decision is contrary to, or not wholly in accordance, with the Budget, or contrary to the Policy Framework and not authorised by the terms of this Constitution, and require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

7. LIMITED POWERS OF THE CABINET TO MODIFY THE POLICY FRAMEWORK

7.1 Notwithstanding the other provisions of these Rules, the Cabinet shall have the power to amend, modify, vary or revoke any plan or strategy falling within the Policy Framework where such amendment, modification variation or revocation :-

- 1) is required to giving effect to any requirement of a Secretary of State or Minister of the Crown in relation to any plan or strategy submitted to him for approval; ~~or~~
- 2) is within the limits authorised by full Council when it approved the plan or strategy under consideration; or
- 2) is required to give effect to changes in legislation or government guidance or is an annual updating in accordance with provisions of the original plan or strategy.

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SECTION H OFFICER EMPLOYMENT PROCEDURE RULES

These Rules incorporate the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 as amended

1. RECRUITMENT AND APPOINTMENT**1.1 Declarations**

1.1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council, or of the partner of such persons.

1.1.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

1.2 Seeking Support for appointmentsCanvassing

1.2.1 ~~Subject to paragraph (3) below~~, The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

1.2.2 ~~Subject to paragraph (3) below~~, No Councillor will seek support for any person for any appointment with the Council. Any breach of this provision will be referred to the Audit and Standards Committee

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

2.1 Where the Council proposes to appoint a Head of Paid Service or other Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:-

- 1) 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; and
- 2) make suitable arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

For the purposes of these Rules a "Chief Officer" means a Director, statutory section 151 officer, statutory monitoring officer and Head of Service.

3. APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

- 3.1 The full Council will appoint the Head of Paid Service on recommendation from the Joint Appointments and Implementation Committee (JAIC).
- 3.2 The JAIC will appoint Chief Officers
- 3.3 An offer of employment as the Head of Paid Service or a Chief Officer shall only be made following compliance with the following procedure:- Paragraph 5 of Part II of Schedule 1 to The Local Authorities (Standing Orders) (England) Regulation 2001.
- a. JAIC has notified the HR Manager of the name of the person to whom it is proposed to make the office and any other particulars JAIC considers are relevant to the appointment
 - b. The HR Manager has notified every member of the Cabinet of;
 - i. The name of the person to whom it is proposed to make the offer
 - ii. Any other particulars relevant to the appointment which have been notified to the HR Manager
 - iii. The period within which any objections to the making of the offer is to be made to the HR Manager by the Leader on behalf of the Cabinet
 - c. And either;
 - i. The Leader has within the period specified in the notice under paragraph 3.3b) above notified the JAIC that neither he/she or any other member of the Cabinet has any objection to the making of the offer
 - ii. The HR Manager has notified JAIC that no objection was received by him/her within that period from the Leader; or
 - iii. The JAIC is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

~~4. APPOINTMENT OF DIRECTORS~~

- ~~4.1 The Council will approve the appointment of Directors following the recommendation of the Personnel Committee. The membership of such Committee will include the Cabinet Leader and at least one other member of the Cabinet.~~
- ~~4.2 An offer of employment as a Director shall only be made following compliance with Paragraph 5 of Part II of Schedule 1 to The Local Authorities (Standing Orders) (England) Regulation 2001.~~

~~5. APPOINTMENT OF HEADS OF SERVICE~~

- ~~5.1 Appointment of Heads of Service is the responsibility of the Personnel Committee in consultation with the Head of Paid Service and the relevant Director.~~
- ~~5.2 An offer of employment as a Head of Service shall only be made following compliance with Paragraph 5 of Part II of Schedule 1 to The Local Authorities (Standing Orders) (England) Regulation 2001.~~

4. OTHER APPOINTMENTS

4.1 **Officers below Heads of Service**

- 4.1.1 Appointment of officers below Heads of Service (other than an Assistant to Political Group) is the responsibility of the Head of Paid Service or relevant Director or other officer nominated by him.

4.2 **Assistants to Political Groups**

- 4.2.1 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

5. **APPOINTMENT TO BE ON MERIT**

- 5.1 All appointments (other than as an Assistant to a Political Group) shall be made on merit irrespective of race, ethnicity, gender, or religious or political beliefs or affiliations;

6. **DISCIPLINARY ACTION**

~~8.1 — Suspension of Head of Paid Service etc~~

- ~~8.1.1 The Head of Paid Service, Chief Finance Officer and Monitoring Officer may only be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.~~

6.2 Disciplinary Action against the Head of Paid Service, statutory Chief Finance Officer and statutory Monitoring Officer

- 6.2.1 The Head of Paid Service, Chief Finance Officer or Monitoring Officer may not be dismissed by the Council unless the following procedure is complied with: except in accordance with a recommendation in a report made by a designated Independent Person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

- i. The Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 by the Council and by South Bucks District Council are invited to be considered for appointment to a Joint Panel (the Panel) established by the JAIC for the purpose of advising the council on matter relating to the dismissal of statutory officers, with a view to appointing at least two such persons to the Panel.
- ii. The Council must appoint to the Panel such relevant IPs who have accepted an invitation in accordance with the following priority order:
 - a. An IP who is an local government elector in the Council's area or the area of South Bucks District Council
 - b. Any other IP
 - c. An IP who has been appointed by another council or councils
- iii. The Council is not required to appoint more than two IPs but may do so.
- iv. The Panel must be appointed at least 20 working days before a meeting of Full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer.

- v Before the taking of a vote on whether or not to approve such a dismissal the Full Council must take into account, in particular-
 - a. Any advice, views or recommendations of the Panel;
 - b. The conclusions of any investigation into the proposed dismissal; and
 - c. Any representations from the relevant officer.
- vi Any remuneration, allowances or fees paid by the Council to an IP appointed to the Panel must not exceed the level of remuneration, allowances or fees paid to that IP in respect of the person's role as IP under the Localism Act 2011.

6.3 Dismissal of Head of Paid Service and Chief Officers

- 6.3.1 Subject to Rule 6.2 above, ~~the Council may not give notice of dismissal of the Head of Paid Service, Chief Finance Officer, Monitoring Officer or Chief Officer until:disciplinary action in the form of the issue of a notice of dismissal can only be taken against the Head of Paid Service, Chief Finance Officer or Monitoring Officer following compliance with Paragraph 6 of Part II of Schedule 1 to The Local Authorities (Standing Orders) (England) Regulations 2001. In addition, a notice of dismissal to the Head of Paid Service can only be issued following a resolution of the Council to that effect.~~
- a. The Panel has notified the HR Manager of the name of the person to whom it is proposed to dismiss and any other particulars the Panel considers are relevant to the dismissal;
 - b. The HR Manager has notified every member of the Cabinet of;
 - i. The name of the person to whom it is proposed to dismiss
 - ii. Any other particulars relevant to the dismissal which have been notified to the HR Manager
 - iii. The period within which any objections to the dismissal is to be made to the HR Manager by Leader on behalf of the Cabinet
 - c. And either;
 - i. The Leader has within the period specified in the notice under paragraph 6.3.1 b) above notified the Panel that neither he/she or any other member of the Cabinet has any objection to the dismissal;
 - ii. The HR Manager has notified the Panel that no objection was received by him/her within that period from the Leader; or
 - iii. The Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6.4 Role of Councillors

- 6.4.1 Councillors will not be involved in disciplinary action (including dismissal) against any Officer below Heads of Service, other than as a member of the Appeals Committee, except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

6.5 Disciplinary Action against Directors and Heads of Service

- 6.5.1 Disciplinary action against Directors and Heads of Service (other than the Chief Finance Officer and Monitoring Officer) will be in accordance with the Council's

~~agreed Disciplinary Policy and Procedures contained in the Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities.~~ In addition, disciplinary action in the form of the issue of notice of dismissal can only be taken following compliance with ~~pParagraph 6.3.1 above. of Part II of Schedule 1 of The Local Authorities (Standing Orders) (England) Regulations 2001.~~

6.6 Disciplinary Action against Officers below Heads of Service

8.6.1 Disciplinary action in relation to Officers below Heads of Service will be in accordance with the Council's ~~agreed Disciplinary Policy and Procedures~~Code.

