

# DEMOCRACY AND GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday 16 February 2022  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Mrs Blackmore (Vice-Chairman), Cooke, Cooper, English, Hastie, McKay, Perry, Purl (Chairman) and R Webb

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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**Issued on Tuesday 8 February 2022**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

### **INFORMATION FOR THE PUBLIC**

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If your question is accepted, you will be provided with instructions as to how you can access the meeting.

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## **MAIDSTONE BOROUGH COUNCIL**

### **DEMOCRACY AND GENERAL PURPOSES COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON WEDNESDAY 26 JANUARY 2022**

**Present:** Councillors Mrs Blackmore, Cooke, Cooper, English, Hastie, Perry, Purle (Chairman) and R Webb

75. APOLOGIES FOR ABSENCE

Apologies were received from Councillor McKay.

76. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

77. URGENT ITEMS

There were no urgent items.

78. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

79. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

80. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

81. EXEMPT ITEMS

**RESOLVED:** That Item 19 – Exempt Appendix 2 (Independent Remuneration Panel – Recruitment of Independent Person) Interview Assessment Form, be considered in private due to the possible disclosure of exempt information.

82. ADJOURNMENT OF MEETING

The meeting was briefly adjourned between 6.35 p.m. and 6.40 p.m. whilst Officers attempted to remedy the webcast's sound failure.

83. MINUTES OF THE MEETING HELD ON 23 NOVEMBER 2021

**RESOLVED:** That the Minutes of the meeting held on 23 November 2021 be approved as a correct record and signed.

84. PRESENTATION OF PETITIONS

There were no petitions.

85. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There was one question from a member of the public. In accordance with Constitutional Rule 14.10, Part 3 of the Council's Constitution a summary of the answers given by the Chairman has been provided below.

Question from Mr Peter Coulling to the Chairman of the Democracy and General Purposes Committee

*'The Council is currently relying on YouTube to make available recordings of Council and Committee meetings, despite the fact that the recorded speech is not always discernible and, at examination of the current Local Plan, Webcast failed for the first week to the disadvantage of the democratic process. For Council or Committee meetings, minutes are created to record for posterity the gist of many agenda items, including corresponding decisions. However, those minutes record nothing about the answers to questions and supplementaries from the public and rely on perpetual availability of YouTube recordings as a source for future researchers.*

*What are the specific contractual terms with YouTube and what are the MBC contracted back-up IT arrangements in the event of YouTube live failure or deletion of historic recordings that, together, give assurance of continued availability of recordings for posterity?'*

In response, the Chairman stated that £50,000 had been saved since the Council had switched to using YouTube as the platform to webcast the Council's meetings. YouTube's terms of service were easily accessible with the recordings to be retained indefinitely and could be downloaded by the Council at any time. The purpose of the minutes was to provide an accurate record of any decisions taken, rather than a verbatim record of meetings.

Mr Peter Coulling asked the following supplementary question:

*'There's an unholy reliance on YouTube without any contractual obligations; indefinitely is in the eye of the beholder. It strikes me that this all argues for a slightly fuller set of minutes including a gist of all questions and all answers so that they can be reviewed as we move into a critical period of the Local Plan Review. Your answer was very full, but I believe it shows an exposure. Does that argue for a slightly fuller minutes including all questions and answers/with a gist of the answer?'*

In response, the Chairman stated that it did not.

86. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

87. COMMITTEE WORK PROGRAMME

The Committee were informed that the positions associated with the Relief in Need Charities, as an Outside Body within the remit of the Committee, would be advertised and considered at the March 2022 meeting of the Committee.

In response to questions, the Chairman confirmed that it was intended that the three items shown as 'Cllr Request' would be reviewed and where possible added to the Committee's work programme for this year.

**RESOLVED:** That the Committee Work Programme be noted.

88. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

89. INDEPENDENT REMUNERATION PANEL - RECRUITMENT FOR INDEPENDENT PERSON

The Democratic Services Officer introduced the report and stated that the remaining vacancy on the Independent Remuneration Panel (IRP) must be filled ahead of the IRP's review of the Member's Allowance scheme, as applicable to Borough Councillors and Parish Councils.

The Committee entered into closed session to conduct the interview in accordance with Exempt Appendix 2 to the report.

**RESOLVED:** That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified, having applied the public interest test:

**Head of Schedule 12A and Brief Description**

Exempt Appendix 2 (Independent Remuneration Panel – Recruitment of Independent Person) Interview Assessment Form

Paragraph 1 –Information relating to an individual

One candidate was interviewed, with questions asked by the Committee.

**RESOLVED:** That

1. The application received to fill the vacancy on the Independent Remuneration Panel be considered; and
2. Council be recommended to appoint Derek Butler as an Independent Person on the Independent Remuneration Panel for the review taking place in February 2022'.

Note: The Committee remained in closed session between 6.50 p.m. to 6.59 p.m.

90. ADJOURNMENT OF MEETING

The Committee adjourned between 6.59 p.m. to 7.04 p.m. whilst attempts were made to rectify the webcast's sound failure.

The Committee agreed that the meeting should proceed in order to conduct the items of business on the agenda.

91. WORKFORCE STRATEGY UPDATE REPORT

The Head of HR Shared Service introduced the report and outlined the progress made against the Workforce Strategy themes, particularly 'organisation culture and change'. The updated action plan was shown in Appendix 1 to the report.

Staff training programmes continued to be delivered, both virtually and in-person, on topics such as mental health, safeguarding and wellbeing. A Hybrid Policy had been introduced jointly with Swale Borough Council. A total of 111 recruitment campaigns had taken place across 2021, with several Senior Officer positions currently being advertised.

In response to questions, the Head of HR Shared Service confirmed that apprentices were encouraged to remain employed with the Council when possible. The days lost to Mental Health had reduced significantly from 2019/20 and the supporting facilities available to staff, including trained Mental Health First Aiders, were outlined.

The Committee expressed support for the work undertaken and the sustained reduction in days lost to mental health issues.

**RESOLVED:** That the report be noted.

92. PAY POLICY REPORT

The Head of HR Shared Service introduced the report and outlined the statutory requirement for Local Authorities to update and publish the Pay Policy Statement annually. Particular attention was drawn to section 3.5 and appendix H as contained within Appendix 1 to the report.

**RESOLVED:** That Council be recommended to agree the proposed Pay Policy Statement set out at Appendix 1 to the report, prior to the documents publication on the Council's website.

93. NEW CONSTITUTION: CONSIDERATION OF DRAFT SECTIONS

The Head of Policy, Communications and Governance introduced the report and outlined the purpose of a Local Authority Constitution. The approach taken by the Governance Arrangements Working Group (working group) differed from standard practice, as the draft Constitution

had been produced by the Chairman and then considered by the working group, with advice provided by the External Legal Advisor and Officers.

The Committee were asked to consider the drafted sections in relation to the Leader, Policy Advisory Committees (PAC), Overview & Scrutiny and Procedure Rules, as shown in appendix A to the report, which included comments from the External Legal Advisor. Appendix B to the report contained a list of significant changes.

The changes made by the working group, and whether these were required as part of the change in governance arrangements, were outlined in section 2.14 of the report. The risks identified in points 5.3, 5.4 and 5.5 of the report were specifically highlighted.

In response to questions, the Head of Policy, Communications and Governance confirmed that the governance arrangements concerning Charitable Trusts alongside the terms of reference for an agreed Employment Committee would be considered by the working group at its next meeting. Access to Information was also scheduled to be considered at the Committee's next meeting.

In response to questions, the Democratic and Electoral Services Manager highlighted the importance of rules that provided flexibility in managing meetings, such as the invitation to third parties.

It was confirmed that the Administration's Programme would be re-presented to Council until agreed, at which point the Executive would be responsible for the programme's implementation. The aim of PACs to encourage collegiate working between Executive and Non-Executive Members was reiterated, following the amendment that the Leader would nominate an Executive Member as the PAC Chairman.

Several Members felt that the draft Constitution should be written in plain English, with the removal of Latin phrases and simply laid out to increase its useability. Further consideration would be given to facilitating Councillor training on the new Constitution.

**RESOLVED:** That

1. The new draft Constitution sections relating to the role of Leader, Policy Advisory Committees, Overview and Scrutiny, Procedure Rules and the Administration's Programme, as attached at Appendix A to the report, be agreed in principle;
2. The further amendments likely required to the document as the drafting process continued, be noted; and
3. All drafting would be in accordance with legal requirements.

94. LOCAL GOVERNMENT BOUNDARY REVIEW - UPDATE

The Democratic and Electoral Services Manager introduced the report and informed the Committee that the Local Government Boundary Commission for England (LGBCE) had agreed the figure of 48 Councillors as proposed by the Council.

The LGBCE would be undertaking a virtual community engagement event on 31 January 2022, focusing primarily on the borough's parishes. A Member workshop focussed on the urban and rural areas of the borough would be arranged for February 2022. A draft series of options, for example whether to have one-Member urban wards, would be presented to the Committee and its next meeting and then discussed at the Member workshop.

The boundary review consultation being carried out by the LGBCE had commenced on the 25 January 2022. It included the projected electorate forecast figures that demonstrated the electoral inequality there would be in 2027 between the number of residents per Councillor across existing wards.

In response to questions, the Democratic and Electoral Services Manager emphasised that the review would focus on the creation of the new wards and that multiple options would be considered.

The Committee expressed support for the consideration of a multitude of options as the next stage of the review progressed and thanked Officers for the work undertaken. The intensity and speed with which the next stage of the review had to be completed was noted.

**RESOLVED:** That

1. The proposed timetable as set out in point 2.6 of the report alongside the approach set out in the report be agreed; and
2. The tight and intense period of work required with Members between the February and March meetings of the Committee be noted.

95. EXEMPT APPENDIX 2 (INDEPENDENT REMUNERATION PANEL - RECRUITMENT OF INDEPENDENT PERSON) INTERVIEW ASSESSMENT FORM

**RESOLVED:** That the item be considered alongside Item 14 – Independent Remuneration Panel – Recruitment for Independent Person.

96. DURATION OF MEETING

6.30 p.m. to 8.06 p.m.

Note: The Committee adjourned between 6.35 p.m. to 6.40 p.m. and 6.59 p.m. and 7.04 p.m.

## 2021/22 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Outside Body Appointment - Relief in Need Charities	D&GP	09-Mar-22	Officer Update		Lara Banks	Lara Banks
Revised Constitution	D&GP	09-Mar-22	Officer Update		Angela Woodhouse	Angela Woodhouse
LGBR Update - Proposed Consultation Response	D&GP	09-Mar-22	Officer Update		Ryan O'Connell	Ryan O'Connell
Committee Meeting Times	D&GP	09-Mar-22	Cllr Request		Angela Woodhouse	Ryan O'Connell
Procedure Rules Training	D&GP	May (Induction)	Cllr Request		Angela Woodhouse	Angela Woodhouse
Local Government Reform	D&GP	TBC	Cllr Request	Yes	Alison Broom	Angela Woodhouse

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# Agenda Item 14

## Democracy and General Purposes Committee

16 February 2022

### New Constitution: Consideration of Draft Sections, Member Rights and Decision Making

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Jayne Bolas, Monitoring Officer; and Angela Woodhouse, Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Angela Woodhouse, Head of Policy, Communications and Governance; and Oliviya Parfitt, Democratic Services Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### Executive Summary

Appendix A contains the next set of relevant draft constitution sections for the new Governance Model. As agreed at the meeting of this Committee in November 2021 the sections included for consideration relate to Member rights including, agenda items, questions and decision making. The report does not include access to information as this is still subject to review by the working group. The full draft constitution will be considered by this Committee on March 9 2022.

#### Purpose of Report

Consideration and agreement.

#### This report makes the following recommendations to this Committee:

1. Consider the new draft constitution sections relating to the role of the Leader, Policy Advisory Committees, Overview and Scrutiny, Procedure Rules and the Administration's Programme proposed by the working group attached at Appendix A, for inclusion in the new draft constitution and the options at para 3 and provide direction on the way forward.
2. All drafting agreed to be in accordance with legal requirements.

#### Timetable

<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee	26 January 2022
Democracy and General Purposes Committee	16 February 2022
Democracy and General Purposes Committee	9 March 2022
Council	13 April 2022

# New Constitution: Consideration of Draft Sections, Member Rights and Decision Making

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>The new constitution will need to ensure effective decision-making processes are in place to achieve the strategic priorities.</p>	Head of Policy, Communications and Governance
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The new constitution will need to ensure effective decision-making processes are in place to achieve the strategic priorities.</p>	Head of Policy, Communications and Governance
<b>Risk Management</b>	Covered in the risk section at 5.	Head of Policy, Communications and Governance
<b>Financial</b>	<p>It was agreed that the cost for the new constitution will be met from reserves. The cost estimate was made prior to the Chair of the Democracy and General Purposes Committee leading the member working group taking on the drafting and the working group expanding the scope of the work; consequently, the cost now involved is likely to be in excess of that originally envisaged.</p>	Section 151 Officer & Finance Team

<b>Staffing</b>	<p>The drafting of the new constitution has been supported by the Head of Policy, Communications and Governance, Monitoring Officer and a Democratic Services Officer. As the new draft is not just a simple change to reflect the revised governance structure agreed by Full Council (i.e. the move from a Committee system to an Executive system for member decision making) but an entirely new structure for the Constitution with multiple other changes the work has been significant.</p>	<p>Head of Policy, Communications and Governance</p>
<b>Legal</b>	<p>The Localism Act 2011 amended and inserted Part 1A of the Local Government Act 2000. The provisions enable a Council to operate one of three permitted forms of governance:</p> <ul style="list-style-type: none"> <li>(a) Executive arrangements; or</li> <li>(b) A committee system; or</li> <li>(c) Arrangements prescribed by the Secretary of State.</li> </ul> <p>The executive arrangement may consist of a 'executive' leader and cabinet under the 2000 Act, section 9C (3); or the directly elected mayor and cabinet model of governance under section 9C (2). The executive may not exceed 10 members of the Council, to include the Leader and/or Mayor.</p> <p>The executive arrangement of a Council must include provision for the appointment of one or more overview and scrutiny committees to review and scrutinise executive decisions made, or other action taken – LGA 2000, section 9F.</p> <p>The 2000 Act divides the functions into Council functions, local choice and executive functions. The allocation of functions is prescribed under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). Anything not listed in these regulations is an executive function.</p> <p>The Council is required to have an up-to-date written Constitution setting out how the Council</p>	<p>Interim Deputy Head of Legal Partnership</p>

	conducts its business, who takes which decisions and how to work with the Council. The Constitution should contain the Council's Standing Orders, the Code of Conduct, information required by the Secretary of State and other information as the Council considers appropriate – section 9P LGA 2000.	
<b>Privacy and Data Protection</b>	No impact.	Corporate Insight, Communities and Governance Manager
<b>Equalities</b>	The recommendations do not propose a change that will require an equalities impact assessment.	Equalities & Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Head of Policy, Communications and Governance
<b>Crime and Disorder</b>	It is proposed that the legislative requirements for Overview and Scrutiny of Crime and Disorder Reduction will be contained within the terms of reference for the new Overview and Scrutiny Committee (this requirement is currently discharged by the Communities, Housing and Environment Committee).	Head of Policy, Communications and Governance
<b>Procurement</b>	There has been and will continue to be a need procure external legal advice to assist with the development of the constitution.	Head of Policy, Communications and Governance
<b>Biodiversity and Climate Change</b>	There are no direct implications of this report on biodiversity and climate change.	Biodiversity and Climate Change Manager

## **2. INTRODUCTION AND BACKGROUND**

2.1 The constitution is the key governance document for the Council and should set out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are prescribed in law and others are a matter for the Council to choose. The constitution should make clear to members of the Council, its Officers and the public how the council works, what people's rights are and how all decisions will be made in accordance with the law. It is a key document and needs to be as clear as possible and kept regularly under review and updated.

2.2 In May 2021 the Council approved the following motion:

" (1) That Council agrees, in principle, to revert to executive arrangements from its next Annual Meeting for the municipal year 2022/23 onwards.

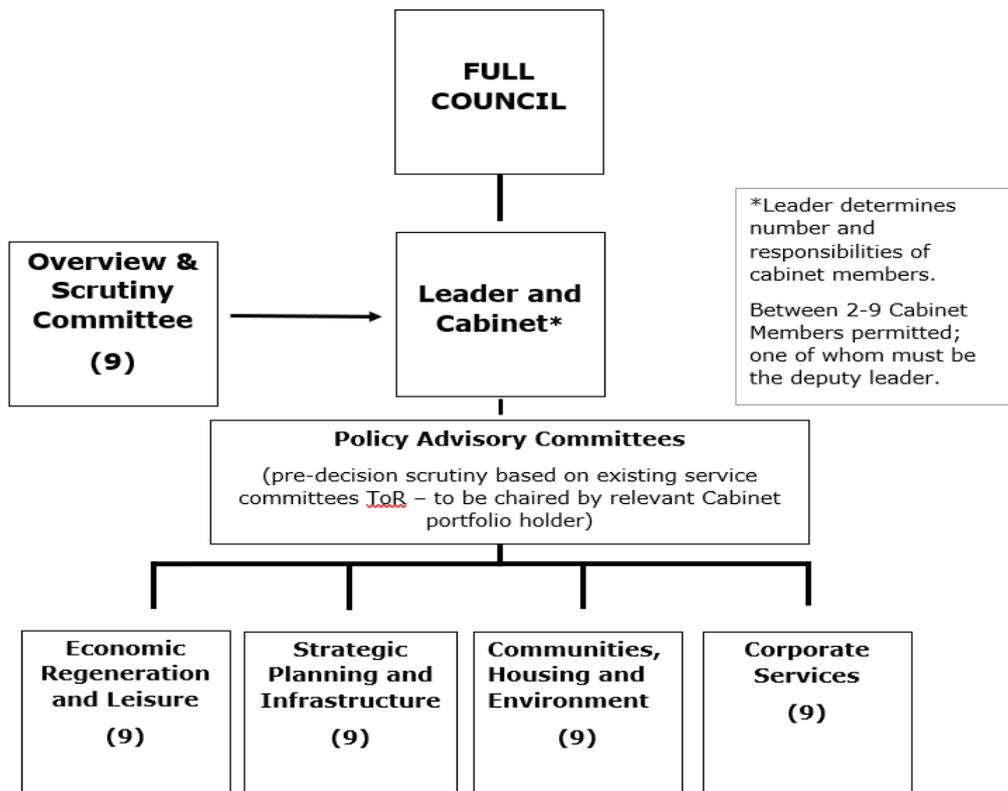
(2) That Council recognises the substantial work required to bring forward final proposals, to review interim arrangements and other aspects of member involvement.

(3) That Democracy & General Purposes Committee be requested to consider the matters outlined in (2) and put a proposed executive arrangements model to Council for adoption in order to allow the executive arrangements to be adopted to meet the principle agreed in (1)."

2.3 The Democracy and General Purposes Committee appointed a working group to develop a new model. The Working Group identified the principles that would be important in the new model and subsequent constitution:

- Member inclusivity throughout the decision-making process
- Increased transparency of decision making
- A member led decision making process; and
- Increased pre-decision scrutiny

A model was developed to meet the principles above with the addition of four Policy Advisory Committees (PACs) to a traditional Leader and Executive model aligned to portfolios to ensure greater member involvement at a pre-decision stage. The single overview and scrutiny committee (OSC) will also undertake crime and disorder functions. All Cabinet decisions, except those outlined as part of the administration's programme (individual or collective), are proposed to be subject to pre-decision scrutiny at the relevant PAC, unless dealt with under the urgency provisions.



\*This diagram does not include regulatory/statutory/other Committees such as; Audit, Governance and Standards, Licensing, Planning, Crime and Disorder Committee, Appointment Sub-Committee, Democracy and General Purposes Committee.

2.4 In response to questions, it was clarified at Democracy and General Purposes Committee meeting on 8 September 2021 that “(t)he Constitution would be created using a previous version the 2014 when the Council had an executive model in place, and the Legal Team with external expert advice would lead this work.” This reflected the distinctive roles and responsibilities of councillors and officers i.e. it would be for Councillors to set direction and principles and for officers (and in this case an external legal expert with specialist expertise) to the draft the constitution on that basis for the working group to review, debate and refine. As Members are aware the document at Appendix A is a proposed draft being a rewrite by the Chairman of this Committee and discussed at the Working Group.

2.5 On 29 September 2021 Council approved the new model of executive governance proposed by Democracy and General Purposes Committee.

The agreed resolutions are outlined below:

1. “That the Executive Model outlined at paragraph 3.3 of the report to the Democracy and General Purposes Committee, attached as Appendix 1<sup>1</sup> to the report of the Committee, be adopted at the Annual Meeting of the Council in 2022.
2. That the timetable for developing and implementing the new Executive Model set out in paragraph 2.4 and section 7 of the report to the Democracy and General Purposes Committee, attached as Appendix 1 to the report of the Committee, be approved.

<sup>1</sup> see diagram above

3. That the use of reserves to fund the work required to review and redraft the Constitution be approved.”

As part of the proposal, it was agreed that the Governance Arrangements Working Group would continue to operate and review the redrafted significant parts of the constitution prior to Democracy and General Purposes recommendation to Council for adoption.

- 2.6 In November 2021 Democracy and General Purposes considered and noted the below approach to drafting the new constitution:

Topic	Working Group Meetings	DGP – Committee	Council
Leader and Cabinet <ul style="list-style-type: none"> <li>• PACs and OSC</li> <li>• Procedure Rules</li> <li>• Leader’s annual speech/administration’s programme</li> <li>• Local Choice Functions</li> </ul>	Framework 11 November 2021 and 2 <sup>nd</sup> Meeting TBC November  Draft Constitution Sections considered by working group on 9 December 2021	26 January 2022 (publication on 18 January 2022)	
Member Rights <ul style="list-style-type: none"> <li>• Access to Information</li> <li>• Agenda items</li> <li>• Questions</li> <li>• Decision making including key decisions</li> </ul>	Framework 16 December 2021  Draft Constitution considered by working group on 13 January 2022	16 February 2022 (publication on 8 February 2022)	
Remaining Constitution	Draft Constitution considered by working group on 17 February 2022	9 March 2022 (published on 1 March 2022)	13 April 2022 (published on 5 April 2022)

- 2.7 Democracy and General Purposes considered sections of the constitution relevant to the Leader and Cabinet, Policy Advisory Committees (PACs), Overview and Scrutiny, Local Choice Functions, the Administration’s Programme and Procedure rules at its meeting January. The Committee made observations regarding the draft sections requesting that the constitution be written in plain English and laid out simply to increase useability. Consideration was given to the appointment of the Chairs of PACs and additional questions were asked about access to information and charitable trusts.

- 2.8 The working group has not yet concluded its detailed work on Access to Information so this will be presented to the committee in the final draft in March, unless it is deemed necessary to call an extraordinary meeting for this purpose.

2.9 In accordance with the remaining timetable the Committee is asked to consider the following sections of the new constitution, Attached at **Appendix A:**

Section	Topic
Part A1.	The Council and the Constitution
Part A2.	Core Provisions of the Constitution
Part C1.	Council Procedure Rules
Part C2.	Committee Procedure Rules
Part C3.	Executive Procedure Rules

2.10 **Appendix A** includes the draft sections relevant to the themes agreed for consideration. Part A has been included as this sets out the provisions and higher principles of the new constitution and relates to the areas to be considered and covered in Part C. This Committee has already commented on and considered the parts presented but is asked to consider the parts that relate to member rights, decision making and key decisions.

2.11 Attached at **Appendix B** is a list of significant changes, where legal advice has been given this is highlighted with the external lawyer's comments provided. This should be read alongside **Appendix A**.

2.12 **Part A**, sets out the higher-level principles and core provisions of the constitution.

2.13 **Part C**, sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made.

#### 2.14 **Changes of Significance by Topic**

##### **Member Rights as summarised in Part A2:**

(New rights that have been added are in italics and highlighted)

- The right, together with four (4) others, to requisition an Extraordinary Meeting of the Council;
- *The right to move amendments to any Motion by the Leader concerning the Administration's Programme for the Municipal Year;*
- The right to move a Motion on Notice at a meeting of the Council;
- The right to ask Questions on Notice at meetings of the Council, the Committees and the Executive;
- The right to have a subject added to the agenda of a meeting of a Committee;

- The right to refer the determination of a planning application affecting the Member's Ward to the Planning Committee;
- *The right to refer a breach of planning control to the Planning Committee;*
- *The right, together with two (2) others, to refer a serious nuisance or a major service failing directly to the Executive;*
- *The right, together with two (2) others, to call-in a decision of the Executive for scrutiny;*
- The right to issue a Member Call for Action;
- *The right to refer a dispute about his or her rights under this Constitution to a Panel of the Democracy & General Purposes Committee for determination.*

### **Decision Making**

Decision making is covered in Part A2 at section 4 and within the procedure rules of the Council, Executive and Committees at C1, C2 and C3. The definition of a key decision is the same definition in place in 2015 under the previous Leader and Cabinet Model. The decisions have been further defined to identify procedural and decisions of less significance and other material decisions.

Significant Decisions:

- (a) *Key decisions will be those which:*
  - (i) *result in the Council incurring expenditure, or making savings, of more than £250,000; or*
  - (ii) *are significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.*
- (b) Procedural and De Minimis Decisions are those decisions pertaining to procedural matters and those decisions of little or no policy significance where expenditure or loss is less than £5,000.
- (c) Other Material Decisions are those decisions not otherwise falling into (a) or (b).

### **Member Dispute Panel**

- as the Mayor or Chair's rule at a meeting is final then this panel will meet retrospectively to then consider the decision made in respect of a point of order – it is unclear how this will work in practice. This has come forward via the working group.

## **Visiting Members**

- For meetings of the Executive, Visiting Members have to give written notice to speak 1 clear day before the meeting.

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### **3. AVAILABLE OPTIONS**

#### **3.1 To Agree the Draft Sections as Per Appendix A**

The working group have spent a significant amount of time reviewing and developing the sections of the constitution attached. As the new constitution is a complete rewrite rather than a simple review and insertion of new sections to fulfil the requirements of the change in governance models, the committee should review and consider the implications thoroughly.

#### **3.2 Amend the sections as presented**

The Committee may wish to put forward amendments to the text as is written.

#### **3.3 Request the governance working group rewrite sections**

The Committee could request that sections are revised if Councillors do not wish that significant parts are changed

#### **3.4 Request a simple redraft of the current constitution**

The Committee could request that the current constitution is redrafted to purely incorporate the changes to an Executive model of governance as approved at Council. An example section could be provided by the external legal advisor. This would be in line with the direction set out at the DGP meeting in September 2021.

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

#### **4.1 The Committee could take any of the options above.**

There are concerns about the practical application and use of the document for example, with the ability to ensure the smooth running of meetings and applying procedure rules with the removal of mayoral/chairman discretion, and other Councillor discretions and having to cross reference in places to apply the constitution. There is also a need for detailed legal advice to be provided on aspects of the Constitution which are due to be presented to committee at future meetings.

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### **5. RISK**

#### **5.1 There are several risks that need to be considered as the constitution is developed.**

## 5.2 Reputational Risk

If the Council does not have an appropriate decision-making framework in place, and cannot make timely decisions or take appropriate actions, the Council's reputation will be compromised.

## 5.3 Legal Risk

Risk of something being unlawful in the constitution as drafted or in the way in which it governs decision making. A number of unlawful matters have already been identified and raised at the previous meeting of this Committee. Any further concerns will be reported to the committee at the appropriate stage.

## 5.4 Practicality of the document and decision making

There is a risk that the proposed new constitution as drafted will have an adverse impact on the smooth running of decision making and meetings. There is a duty for those advising decision makers to ensure they provide the best advice possible for the benefit of the whole Council to ensure good governance. Comments in Appendix B show concerns on the application of the constitution.

## 5.5 Timing

A timetable for completing the constitution redrafting is in place and is on track. As the development of the constitution has taken a different approach than anticipated, mitigations have been put in place including additional meetings of the working group and advice and input from the external legal advisor.

---

## 6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The Democracy and General Purposes Committee through the governance arrangements working group have been involved in the development of the new executive model as a Member-led process. Consultation has previously been carried out via councillor survey as part of the development of the new model and this has informed the development of the new constitution.

6.2 This Committee have already considered sections of the constitution in January, the changes approved at that meeting will be made prior to the final draft being presented to Democracy and General Purposes in March 2022.

6.3 Council approved the next steps for developing the new executive model of governance at its meeting in September as outlined below:

Activity	Date	Purpose
Publication of Proposals	October 2021	Publish Proposals and required notices
Working Group	October 2021 to March 2022	Develop Constitution
Officers	October 2021 onwards	Officers to develop staffing to support new arrangements ready for 1 May 2022
Panel	January - March 2022	Members Allowance Scheme reviewed

DGP	March 2022	Recommend constitution to Council
Council	April 2022	Approve Constitution and members Allowance Scheme

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 The process for drafting the constitution is set out at paragraph 2.3 of this report.

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## **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Working Group Drafted Constitution Sections
- Appendix B: Table of significant changes with comment
- Appendix C: Notes of the working group meetings

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## **9. BACKGROUND PAPERS**

Report to Council 29 September 2021 – New Executive Model

# MAIDSTONE BOROUGH COUNCIL



## CONSTITUTION

**JANUARY 2022**

[2022-01-14\\_MBCconstitution\\_v4\\_d5 \(002\).docx](#)[2022-01-14\\_MBCconstitution\\_v4\\_d3.docx](#)

## VERSION CONTROL

Version	Date	By	Description
1	October 2021	JRGP	Initial text and structure
2	23 Nov 2021	JRGP	1 <sup>st</sup> working draft ahead of D&GP meeting
3	15 Dec 2021	JRGP	2 <sup>nd</sup> working draft: addresses initial Weightmans & Working Group feedback
4	13 Jan 2022	SG	3 <sup>rd</sup> working draft: Further Weightmans markups

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## **PART A - CORE PROVISIONS**

[2022-01-14\\_MBCConstitution\\_v4\\_d5\(002\).docx](#)[2022-01-14\\_MBCConstitution\\_v4\\_d3.docx](#)

**A1. The Council and the Constitution**

**1. The Council**

- 1.1. The Maidstone Borough Council is constituted by virtue of Section 2 of the Local Government Act 1972 as consisting of the Chairman and the Councillors, being the Mayor and the Members.
- 1.2. The Council shall exercise all its powers and duties in accordance with the law and with this Constitution.

**2. Purpose of this Constitution**

The Council is required by law to have a written constitution setting out how the Council operates, how decisions are made and the rules and procedures that need to be followed. The arrangements making up this Constitution have the purpose of: -

- 2.1. Ensuring that the strategies, policies, ethos & direction of the Council are determined by elected Members;
- 2.2. Facilitating decision-making closest to those elected Members who can be held politically accountable for such decisions by other Members and also by Local Residents (as defined in Part A2, provision 1.1);
- 2.3. Maintaining political accountability during periods of no overall control by any individual Political Group;
- 2.4. Providing elected Members with the information, mechanisms & forums needed to represent Local Residents effectively and to hold those responsible for discharging functions to account; and
- 2.5. Enabling Local Residents opportunities to be heard and to participate directly in the proceedings of the Council, the Committees & the Executive.

**Commented [SG1]:** The issue regarding the definition of "local residents" and the fact that people do not have to reside locally to be able to have a say in how the Council runs if they are affected by its decisions and services still needs to be resolved

**Commented [SG2]:** My view remains that the wording in the current constitution more accurately reflects the purpose of a constitution than the proposed wording

**3. The Structure of this Constitution**

- 3.1. This Constitution, in all six parts, together with annexes, appendices & schedules, and also with the Glossary of Terms, is the Constitution of the Maidstone Borough Council.
- 3.2. The six parts cover different areas and have differing levels of status.
  - 3.2.1. Part A contains the higher-level principles and core provisions of the Constitution.
  - 3.2.2. Part B contains provisions on responsibilities for discharging the functions of the Council and for making decisions.

3.2.3. Part C sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made. This also impinges on how the Council enters into certain transactions. These are intended to be binding on all bodies of the Council.

3.2.4. Parts D & E set out respectively the Codes and Protocols followed by the Council. These are intended to be binding on the Council’s Officers and on its decision-making bodies save that the Council may resolve to make a decision notwithstanding the content of these Codes and Protocols.

3.2.5. Part F contains final provisions such as the statutory Scheme of Allowances.

3.3. The Parts and provisions of this Constitution should not conflict. Where however provisions in this Part A conflict with any provision in any other Part of this Constitution, the provisions in this Part A shall prevail.

**Commented [SG3]:** I still think this is unnecessary, will cause significant practical problems and is not the way documents would normally be interpreted.

**4. Citation**

4.1. Within any Chapter, a reference to a numbered Provision, Rule or Clause shall refer to the contents of that Chapter of the Constitution unless specified otherwise. Within an Appendix to a Chapter, references to a numbered Paragraph shall likewise refer to the contents of that Chapter.

4.2. The contents of this Part A, and also Parts B, D, E & F are correctly referred to as Provisions (e.g. "Provision 4.2"), save for any appendix whose content is correctly referred to as Paragraphs.

4.3. The individual chapters of Part C may be referred to by Chapter number (e.g. "Chapter C1") or by their title (e.g. "Council Procedure Rules"). Within these particular chapters, the contents are correctly referred to as Rules (e.g. "Rule 2" or "Council Procedure Rule 2").

**5. Interpretation**

5.1. Every Provision in this Constitution, including every Rule, Clause or Paragraph, must be interpreted in the light of its purpose.

5.2. The purpose of any such Provision in this Constitution is to be gathered first and foremost from the words used in that Provision.

5.3. Where particular words or phrases are defined within the Local Government Acts, they shall have the same meaning for the purposes of this Constitution unless negated by a particular definition within this Constitution or by the context in which the words or phrase are used.

- 5.4. A number of definitions for particular words or phrases are contained in the Glossary of Terms. These are capitalised throughout this Constitution.
- 5.5. Where the words used provide for any ambiguity or for alternate interpretations of a Provision, that Provision shall be construed in accordance with any particular statement of purpose applying to that provision or to that Part or sub-Part of the Constitution. Where there is no such particular statement of purpose, the general purpose of the arrangements making-up this Constitution set out above in Provision 2 of this Chapter shall apply.

**6. Monitoring and Reviewing this Constitution.**

- 6.1. The Democracy & General Purposes Committee shall monitor and review the operation of the Constitution and associated guidance at least once a year to ensure that the aims and principles of the Constitution are given full effect.
- 6.2. A key role for the Monitoring Officer is to regularly review the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended to better achieve the purposes set out in Provision 2.

**7. Changes to the Constitution**

- 7.1. Subject to Provision 7.2 below, changes to the constitution will only be approved by the Full Council after consideration of the proposal by the Democracy & General Purposes Committee.
- 7.2. The first exceptions to Provision 7.1 is the power of the Monitoring Officer to make amendments to correct typographical errors and to make any purely consequential changes that are required to ensure the text reflects any directly applicable changes in the Local Government Acts and related legislation, or any provision under them. The other exceptions apply to the following Council bodies or Officers in respect of particular Chapters or parts thereof: -

Section	Body / Officer	Subject or Scope
Chs. B3 & B5	Leader	Delegations of Executive Functions to Officers and individual portfolio holders
Ch. B5	Chief Executive	Division of delegated matters amongst Officer roles
Ch. B6	Chief Executive	Appointment of new Proper

		Officers
Ch. C6	Executive	Crime & Disorder Reduction Rules

**8. Suspension & Derogation**

- 8.1. The Core Provisions contained in this Part A may not be suspended or excepted.
- 8.2. The Provisions in Part B may not be suspended or excepted.
- 8.3. The Rules of Procedure in Part C provide for the circumstances in which particular Rules may be suspended. No other suspension or exception shall be permitted.
- 8.4. The nature of the Codes in Part D and the Protocols in Part E are such that the Council may resolve to make any exception to their terms as the Council may see fit.
- 8.5. No other suspension, exception or derogation shall be permitted other than in accordance with this Provision 8.

**9. Publicity and Information**

- 9.1. The Democracy & General Purposes Committee and the Monitoring Officer shall ensure that the *Guide to the Constitution* (“the Guide”) is produced and maintained alongside the Constitution itself. [The Guide shall serve as the summary and explanation of the Constitution and shall be attached as an Appendix.](#)
- 9.2. The Council shall ensure that a copy of this Constitution and the Guide are readily available to Local Residents, Members and Officers alike. This shall include maintaining copies on the Council’s website.
- 9.3. This shall include offering all newly elected Members a hard copy of the Guide, as well as providing soft copies of both the Guide and the Constitution, and ensuring the same are covered in any induction training.

**Commented [SG4]:** In my view as a result of section 17 of the Interpretation Act 1978 there is still a requirement to have an introduction and summary as part of the constitution itself. My view also remains that it would be better to do that as a practice even if it were not a legal requirement.

**A2. Core Provisions of The Constitution**

**1. THE RESIDENTS**

**1.1. Rights of Local Residents**

"Local Residents" in this Constitution means people who reside work or own or operate a business in of the Borough of Maidstone or who and users of its services or are affected by its decisions or services ("Local Residents") and shall have the following rights in respect of the Council. These are subject to the Rules of Procedure in Part C of this Constitution where they pertain to the proceedings of the Council.

**Commented [SG5]:** See comment above re "local residents"

1.1.1. **Voting.** Local Residents on the electoral roll have the right to vote in elections of the Members, and in any local referendum or poll.

**Commented [SG6]:** This is a somewhat simplistic and inaccurate comment. The modular constitution simply states that: "Citizens have the right to: vote at local elections if they are registered.." which arguably is little better, though part of the problem comes from the lack of definition of "local residents"

1.1.2. **Information.** Local Residents shall have the right to: -

- (a) Attend meetings of the Council, the Committees and the Executive;
- (b) Make such recordings and records of such meetings as they wish;
- (c) Know via the Forward Plan what Key Decisions and Other Material Decisions will be taken by the Executive and when;
- (d) Copies of reports and background papers, and any records of decisions made;
- (e) Inspect the Council's accounts and make their views known to the External Auditor.

**Commented [SG7]:** anyone can attend such meetings it cannot as a matter of law be restricted to "local residents" however defined.

**Commented [SG8]:** See comment above

**Commented [SG9]:**

**Commented [SG10]:** There is no longer a legal requirement to publish a "Forward Plan" of key decisions though advance notice of key decisions is required.

1.1.3. **Participation.** Local Residents shall have the right: -

- (a) At meetings of the Council, the Committees and the Executive,
  - To ask questions and to receive answers,
  - To address the meeting, and
  - To present petitions in accordance with the Petition Scheme;
- (b) Via consultations, that shall always include an online option, to give their views;
- (c) To lobby their local Ward Members.

1.1.4. **Complaints.** Local Residents have the right to make complaints and to have these determined objectively by: -

- (a) the Council itself under its Complaints Scheme and arrangements as to Member conduct;
- (b) where applicable, the Local Government and Social Care Ombudsman.

**1.2. Responsibilities**

~~The rights of individual~~ If Local Residents ~~shall in part be contingent upon that individual not~~ disrupting or participat~~ing~~ in the disruption of meetings or engag~~ing~~ in abusive or threatening behaviour or a course of behaviour amounting to harassment of any Member or Officer ~~then this will affect the way in which the Council interacts with those Local Residents in the exercise of those rights~~. In these instances, the Council may take action such as removing individual Local Residents from meetings and/or managing their contact with Officers and/or Members.

**Commented [SG11]:** I still do not think this is lawful. Whilst the Council is entitled to take steps to manage people who believe inappropriately that does not change their "rights" it simply means that the way in which the Council interacts with people in relation to those rights can be modified. The wording in the current constitution on this point is a more accurate reflection of the legal position.

## **2. THE MAYOR**

### **2.1. Election of the Mayor**

- 2.1.1. The Mayor shall be elected by the Council annually in accordance with the Council Procedure Rules in Part C of this Constitution, and the Deputy Mayor shall be appointed in accordance with the same.
- 2.1.2. In preparing for the election of the Mayor and the appointment of the Deputy Mayor, the Council shall have regard to the Protocol on Mayor & Deputy Mayor Pre-Selection contained in Part E of this Constitution.

### **2.2. Efficient Role of the Mayor**

The Mayor and, in his or her absence, the Deputy Mayor shall have the following responsibilities: -

- 2.2.1. To preside at meetings of the Council so that its business can be carried out efficiently and with regard to the rights of elected Members and the interests of Local Residents;
- 2.2.2. To ensure that the Council meeting is a forum for the debate of matters of concern to Local Residents and a place at which Members who are not on the Executive are able to hold the Executive to account;
- 2.2.3. To promote public involvement in the Council's proceedings & activities;
- 2.2.4. To uphold & promote the purposes of this Constitution and to be the conscience of the Council.

### **2.3. Dignified Role of the Mayor**

The Mayor and, in his or her absence, the Deputy Mayor shall also: -

- 2.3.1. Be the First Citizen of the Borough of Maidstone and shall take precedence, save for members of the Royal family and the Lord Lieutenant of Kent when present in the Borough;
- 2.3.2. Promote the Council as a whole and act as a focal point for the community;
- 2.3.3. Attend such civic and ceremonial functions as the Council and he or she determine to be appropriate.

**3. THE MEMBERS**

**3.1. Composition & Eligibility**

- 3.1.1. **Composition.** The Council shall comprise of a number of Members, otherwise called councillors, with one or more Members elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State ("Scheme of Elections").
- 3.1.2. **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor (or Member).

**3.2. Election & Terms of Members**

- 3.2.1. The ordinary election of a third (or as near as may be) of all Members will be held on the first Thursday in May in each year until 2023 inclusive, in accordance with the Scheme of Elections.
- 3.2.2. From 2024, whole council elections shall be held on the first Thursday in May of that year and then every four (4) years thereafter.
- 3.2.3. The terms of office of Members will ordinarily be four (4) years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four (4) years later.

**3.3. Role of Members**

All Members will: -

- 3.3.1. Collectively be the ultimate policy-makers and will carry out a number of strategic & corporate functions;
- 3.3.2. Contribute to the good governance of the Borough;
- 3.3.3. Effectively represent the interests of their Ward and Local Residents;
- 3.3.4. Respond to enquiries & representations, and offer representation & assistance in respect of the Council, to individual Local Residents.

**3.4. Rights of Members to Access Information & Meetings**

- 3.4.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession,

**Commented [SG12]:** This is due to be considered at the meeting of DGP Committee on 16 February. In my view it still does not accurately reflect the law and the committee will need to be given full and detailed legal advice on this point (as will full Council when it ultimately considers the constitution).

including those containing Exempt or Confidential Information, and to attend all meetings of a Member body even where the public have been excluded, where he or she has a need to know.

- 3.4.2. Any officer or body with delegated authority to make a decision under this Constitution determining whether a Member has a need to know certain information shall consider the prima facie existence of that need to know where: -
- (a) The Member sits on the relevant Member body considering a matter to which the information relates, or is likely to sit on that body as a substitute.
  - (b) The Member is considering exercising or is exercising any Rights in Respect to Proceedings summarised in Provision 3.5 below in connection with such a matter; or
  - (c) The information relates directly to matter the Member's role in representing their Ward.

This is subject to there being exceptional circumstances where it would be manifestly unreasonable for the Council to acknowledge a need to know certain information and/or where disclosure of that information to the Member would be contrary to some other enactment.

- 3.4.3. The Access to Information Procedure Rules in Part C seek *inter alia* to apply this principle, subject to the proviso that where there is any conflict in the application of those Rules and the principles in this Provision 3, the principles in this Provision 3 shall prevail.

### **3.5. Rights in Respect to Proceedings**

To assist Members in their work, their rights in respect of the proceedings of the Council shall include: -

- 3.5.1. The right, together with four (4) others, to requisition an Extraordinary Meeting of the Council;
- 3.5.2. The right to move amendments to any Motion by the Leader concerning the Administration's Programme for the Municipal Year;
- 3.5.3. The right to move a Motion on Notice at a meeting of the Council;
- 3.5.4. The right to ask Questions on Notice at meetings of the Council, the Committees and the Executive;

- 3.5.5. The right to have a subject added to the agenda of a meeting of a Committee;
- 3.5.6. The right to refer the determination of a planning application affecting the Member's Ward to the Planning Committee;
- 3.5.7. The right to refer a breach of planning control to the Planning Committee;
- 3.5.8. The right, together with two (2) others, to refer a serious nuisance or a major service failing directly to the Executive;
- 3.5.9. The right, together with two (2) others, to call-in a decision of the Executive for scrutiny;
- 3.5.10. The right to issue a Member Call for Action;
- 3.5.11. The right to refer a dispute about his or her rights under this Constitution to a Panel of the Democracy & General Purposes Committee for determination.

This is a non-exhaustive statement of Member rights, the contents of which are without prejudice to any rights arising under any other Provision within this Constitution or the law.

### **3.6. Conduct**

Members will at all times observe the Members Code of Conduct in Part D of this Constitution and the Protocol on Member/Officer Relations set out in Part E of this Constitution.

### **3.7. Allowances**

Members will be entitled to receive allowances in accordance with the Scheme of Allowances set out in Part F of this Constitution.

## 4. DECISIONS

### 4.1. Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- 4.1.1. reasonableness i.e. not being manifestly unreasonable;
- 4.1.2. due consultation;
- 4.1.3. the taking of professional advice from Officers;
- 4.1.4. the need to explain the reasons for decisions and the options considered;
- 4.1.5. respect for human rights and procedural fairness;
- 4.1.6. a presumption in favour of openness;
- 4.1.7. clarity of aims and desired outcomes; and
- 4.1.8. the Public Sector Equality Duty.

### 4.2. Rules of Procedure

Subject to the Provisions of this Chapter, all decisions must comply with the Rules of Procedure in Part C of this Constitution.

### 4.3. Types of decision

Decision types may be classified in a number of ways

#### 4.3.1. The Member-Body Responsible

- (a) Functions may be reserved for the Full Council as a matter of law or Local Choice. These in turn maybe subdivided into between:
  - (i) those the Full Council must retain by law,
  - (ii) those the Full Council chooses to retain, and
  - (iii) those delegated to Committees and/or to Officers.
- (b) Functions not so reserved are the responsibility of the Executive. These may similarly be delegated by the Executive.

#### 4.3.2. Significance

- (a) ~~fXX Key Decisions definition~~Key decisions will be those which :
  - (i) result in the Council incurring expenditure, or making savings, of more than £250,000; or

~~(a) are significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.~~

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(b) Procedural and De Minimis Decisions are those decisions pertaining to procedural matters and those decisions of little or no policy significance where expenditure or loss is less than ~~£5,000~~.

Commented [SG13]: There needs to be clarity about what "other material decisions are and what this means for the decision making process.

(c) Other Material Decisions are those decisions not otherwise falling into (a) or (b).

4.3.3. **The Administration’s Programme:** Whether the matter for decision is contained within the Administration’s Programme for the Municipal Year or whether it arises in another way.

4.3.4. **The Nature of the Decision:** ranging from general policy to quasi-judicial in particular cases

**4.4. Responsibility for decision making**

The remaining Provisions in this Chapter set out the principles by which particular types of decision or decisions relating to particular areas or functions are the responsibility of which Member body of the Council and/or Officer Role.

Part B of this Constitution gives effect to these Core Provisions by setting out the responsibility for decisions and functions in more detail.

**4.5. Decision making in Certain Individual Cases**

Decisions in individual cases that involve the determination or consideration of the civil rights and obligations or criminal responsibility of any person will follow a proper procedure. Such a procedure shall accord with the requirements of natural justice, procedural fairness and human rights as the context may require.

## **5. THE FULL COUNCIL**

### **5.1. Introduction**

- 5.1.1. Full Council is a formal meeting of the Mayor and Members and may also be referred to as "the Council" where the context allows. Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework. Full Council must also by law take decisions on a number of specific matters.
- 5.1.2. Full Council provides a central forum for debate and gives the opportunity for Members and indeed Local Residents to hold those discharging functions to account.

### **5.2. Types of Meeting**

There are three types of Council meeting: -

- 5.2.1. The Annual Meeting
- 5.2.2. Other Ordinary Meetings
- 5.2.3. Extraordinary Meetings

### **5.3. Proceedings at Meetings of the Council**

All meetings of Full Council are subject to the Council Procedure Rules contained in Part C of this Constitution.

### **5.4. Functions of Full Council**

Subject to the detailed specification maintained in Part B of the Constitution, the only a meeting of the Council will make decisions in respect of those matters reserved for it by law or by Local Choice that are not in turn delegated.

### **5.5. Meaning of Policy Framework, etc.**

- 5.5.1. The Policy Framework means the following Plans and Strategies:
- (a) Those required by law to be adopted by the Council. These include:
- (i) Crime and Disorder Reduction Strategy;
- (ii) Licensing Authority Policy Statement including any Cumulative Impact Policies;

- (iii) Local Development Framework - Plans and alterations which together comprise the Development Plan and Development Plan Documents;
  - (iv) Sustainable Community Strategy;
  - (v) Policies made under the Gambling Act (including any resolution relating to casinos);
- (b) Those which the Council has decided should be adopted by the Council meeting as a matter of Local Choice:
- (i) The Strategic Plan
- 5.5.2. The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure (including the Capital Strategy) and the setting of virement limits.

## **6. THE COMMITTEES**

### **6.1. Outline of the Council's Committees**

- 6.1.1. The Council shall establish a number of different committees, of variable standing, to assist in the decision-making of the Council and the discharge of its functions.
- 6.1.2. These are: -
  - (a) Policy Advisory Committees;
  - (b) The Overview & Scrutiny Committee;
  - (c) Regulatory Committees;
  - (d) Committees in respect of governance, standards and general purposes;
  - (e) The Employment Committee.
- 6.1.3. These Committees shall be subject to the requirements for political balance and proportionality laid down in Sections 15-17 & Schedule 1, Local Government and Housing Act 1989.
- 6.1.4. Part B of this Constitution contains further provisions where Committees are responsible for the discharge of the Council's functions.
- 6.1.5. Part C of this Constitution contains Rules of Procedure applying to the Committees.
  - (a) The Committee Procedure Rules shall apply to all Committees.
  - (b) The Access to Information Procedure Rules shall apply to all Committees.

### **6.2. Policy Advisory Committees**

- 6.2.1. There shall be up to four Policy Advisory Committees ("PACs") consisting each of nine (9) Members.
- 6.2.2. The purpose of the PACs shall be: -
  - (a) To involve Members who are not on the Executive in the work of the Executive and to promote collegiate working between the Executive and such Members;
  - (b) As a forum for: -
    - (i) Members to raise issues pertaining to the discharge of the Council's functions;

- (ii) Officers and/or the Executive to inform Members and seek feedback via reports for noting and comment;
- (iii) Budget and Performance Monitoring.
- (c) To provide an appraisal and opinion of proposed decisions, reflecting the balance on the Council, before they are made with a view to reducing the need for calling-in of decisions.
- 6.2.3. The portfolios of the PACs shall be assigned by the Proper Officer according to a set formula and method. This shall be specified in Part B of this Constitution.
- 6.2.4. The Executive shall ~~appoint~~ nominate a Member on each PAC to coordinate its activities with the Executive. The PAC shall appoint one of its members and to act as Committee Chairman.
- 6.2.5. Each PAC shall elect a member who is not on the Executive to act as its vice-chair, with preference in the election process to be given to Members on the PAC belonging to the non-Administration Political Groups.

**Commented [SG14]:** If these are committees of the Council then only either the Council or the committee can appoint the Chairman. It could be that the expectation (set out in the constitution) is that it will appoint the person nominated by the Leader or the Executive.

**6.3. The Overview & Scrutiny Committee**

- 6.3.1. There shall be an Overview & Scrutiny Committee of the Council consisting of thirteen (13) Members who are not on the Executive plus up to two (2) non-Members co-opted in accordance with the Rules of Procedure.
- 6.3.2. The purpose of the Overview & Scrutiny Committee shall be: -
  - (a) To review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
  - (b) To make reports and/or recommendations to the Full Council and/or the Executive in connection with the discharge of any functions;
  - (c) To consider any matter affecting the Council, the Borough or Local Residents;
  - (d) To act as the Council’s Crime & Disorder Scrutiny Committee for the purposes of Section 19, Police and Justice Act 2006; and
  - (e) To exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.
- 6.3.3. Part B of this Constitution shall set out a more detailed specification of the functions of the Overview & Scrutiny Committee.

- 6.3.4. The Members on the Overview & Scrutiny Committee shall elect one of their number to chair that Committee and another to act as vice-Chair, with preference in the election process to chair that Committee being given to members from the largest non-Administration Political Group on the Council
- 6.3.5. The role and powers of the Overview & Scrutiny Committee are not affected by whether or not a decision relates to a matter within the Administration's Programme.
- 6.3.6. The Overview & Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **6.4. Regulatory Committees**

- 6.4.1. There shall be a Licensing Committee consisting of thirteen (13) Members.
- 6.4.2. The purpose of the Licensing Committee shall be to exercise the licensing and gambling functions on behalf of the Council including: -
  - (a) the creation and review of the statutory and non-statutory policies;
  - (b) the setting of fees and charges including making recommendations to the Council as required; and
  - (c) via the Licensing sub-Committee, to make decisions about individual licensing matters and appeals where not otherwise delegated to Officers
- 6.4.3. The Members on the Licensing Committee shall elect one of their number to chair that Committee and another to act as vice-Chair.
- 6.4.4. There shall be a Planning Committee consisting of thirteen (13) Members.
- 6.4.5. The functions of the Planning Committee shall be to determine town and country planning and development control matters and associated issues.
- 6.4.6. The Members on the Planning Committee shall elect one of their number to chair that Committee and another to act as vice-Chair.

6.4.7. Part B of this Constitution provides for the functions & responsibilities of these Committees.

## **6.5. Governance, Standards & General Purposes**

6.5.1. There shall be an Audit, Governance & Standards Committee consisting of nine (9) Members.

6.5.2. The purpose of the Audit, Governance & Standards Committee shall include: -

- (a) The promotion and maintenance of high standards of Member and Officer conduct within the Council;
- (b) Adoption and reviewing the Council's Annual Governance Statement;
- (c) Independent assurance of the adequacy of the financial and risk management framework and the associated control environment;
- (d) Independent review of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment; and
- (e) Overseeing the financial reporting process.

6.5.3. There shall be a Democracy & General Purposes Committee consisting of nine (9) Members.

6.5.4. The functions of the Democracy & General Purposes Committee shall include: -

- (a) Acting as the guardian of this Constitution, working with the Monitoring Officer to ensure that it is maintained and adhered to;
- (b) Being responsible for Member training and development and acting as a champion of the role & rights of individual Members;
- (c) Via its Disputes Panel, determining individual Member complaints and grievances as to the rights of Members under this Constitution, albeit without prejudice to the role of those Members presiding at meetings;
- (d) Determining matters relating to elections, electoral registration;
- (e) Other democratic services responsibilities and functions;

6.5.5. Part B of this Constitution provides more detail of the role & responsibilities of these Committees.

**6.6. The Employment Committee**

- 6.6.1. There shall be an Employment Committee consisting of nine (9) Members.
- 6.6.2. The purpose of the Employment Committee shall be *To undertake the following functions:* -
- (a) To develop and approve the Council's human resources strategies, policies and officer terms and conditions of employment subject to the approval of any budget implications by the Cabinet and/or Council as appropriate.
  - (b) To appoint: -
    - (i) a Chief Officers Appointments Panel to consider appointments at chief officer and head of service level;
    - (ii) a Chief Officers Investigation and Disciplinary Panel to consider any disciplinary allegations against chief officers and head of service level (excluding the Chief Executive, Monitoring Officer and Section 151 Officer);
    - (iii) a Chief Officers Disciplinary Appeals Panel to consider appeals against dismissal by any chief officer or heads of service (excluding the Chief Executive, Monitoring Officer and Section 151 Officer) or disciplinary action short of dismissal by any chief officer or head of service (including the Chief Executive, Monitoring Officer and Section 151 Officer); and
    - (iv) a statutory officers investigation and disciplinary panel to consider any disciplinary allegations against the Chief Executive, Monitoring Officer and Section 151 Officer.
  - (c) Dealing with employment and staffing matters unless otherwise delegated.

**6.7. Miscellaneous**

- 6.7.1. Any sub-Committee of any of the aforementioned Committees shall:
- (a) Be drawn mainly from the membership of the parent Committee;
  - (b) Be subject to the rules on political balance cited above;
  - (c) Hold its meetings in public;

- (d) Report the minutes of its proceedings to its parent Committee; and
  - (e) Be subject to the prima facie need to know of Members of its parent Committee, save for the Licensing Committee in respect of any sub-Committee determining an application.
- 6.7.2. Any Working Group of any of the aforementioned Committees shall:
- (a) Be limited in its terms of reference to exploratory work on behalf of its parent Committee;
  - (b) Report the minutes of its proceedings to its parent Committee;
  - (c) Be drawn primarily though not necessarily exclusively from the membership of its parent Committee, and shall aim for inclusivity though not subject to the requirements of political balance cited above.
- 6.7.3. For any other body that is neither constituted by this Constitution nor by a Political Group, involving two (2) or more Members that endures for six (6) months or more, the Proper Officer shall ensure that: -
- (a) The existence of the body is documented;
  - (b) The body is assigned to a Parent body, being a Member body that is formally constituted under this Constitution;
  - (c) It reports the minutes of its proceedings to its Parent body.
- 6.7.4. For the avoidance of doubt, the Executive is not to be treated as a Committee of the Council for the purposes of this Provision 6.

## **7. THE EXECUTIVE**

### **7.1. Role and Form**

- 7.1.1. The Executive shall be responsible for all of the functions of the Council that are not designated by law or this Constitution (where permitted by law) to other Member bodies.
- 7.1.2. The Executive shall consist of the Leader together with at least two (2), but no more than nine (9), Members appointed to the Executive by the Leader.
- 7.1.3. Members appointed the Executive shall be referred to as "Members on the Executive". Individual Members on the Executive assigned portfolios may be referred to as "Lead Member for [portfolio name]".

### **7.2. The Leader**

- 7.2.1. The Leader will be a Member elected to the position of Leader by the Council.
- 7.2.2. The Leader will hold office until:
  - (a) He or she resigns from the office; or
  - (b) He or she is no longer a Member; or
  - (c) The earlier of: -
    - (i) The fourth Annual Meeting following his or her election, or
    - (ii) The Annual Meeting following Whole Council Electionssave that the Leader may be removed from Office at an earlier date by resolution of the Council.

### **7.3. The Deputy Leader**

- 7.3.1. The Leader may designate one of the Members on the Executive as the Deputy Leader.
- 7.3.2. The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.
- 7.3.3. The Leader may, if he thinks fit, remove the Deputy Leader from office at any time.

### **7.4. Other Members on the Executive**

Other Members on the Executive shall hold office until:

- 7.4.1. they resign from office; or
- 7.4.2. they are no longer Members; or
- 7.4.3. they are removed from office by the Leader acting in accordance with the provisions for removal in the Rules of Procedure in Part C.

#### **7.5. The Administration's Programme**

- 7.5.1. By the latter of sixty (60) days from his or her election or the Annual Meeting, the Leader and/or the Executive shall submit to Full Council for consideration & approval the Administration's Programme for the remainder of the Municipal Year.
- 7.5.2. Where Full Council does not approve the Administration's Programme within the time-scales set out in Provision 7.5.1 above, with or without amendments agreed by Full Council, the Executive and the Officers shall use their best endeavours to secure that such a programme, acceptable to the majority of Members, is so approved. In this event, a proposal for the Administration's Programme shall be put to each meeting of Full Council until one is approved.
- 7.5.3. Where the Administration's Programme is approved by Full Council but either sets out proposed changes to the Budget & Policy Framework, or otherwise conflicts with the Budget & Policy Framework, this shall not alter the prevailing Budget & Policy framework unless Council resolves explicitly that the Budget and Policy Framework should be so amended; if no such resolution is made the Executive and the Officers shall undertake the work necessary to bring detailed implementation proposals for such changes to a future meeting of Full Council for approval.
- 7.5.4. Where the Administration's Programme is approved by Full Council and contains particular pledges within the scope of Executive Functions that are not in conflict with the existing Budget & Policy Framework, each of those particular pledges shall then form priority items for consideration by the Executive and not require prior consideration by a Policy Advisory Committee. This shall not prevent the Leader or a competent Member on the Executive choosing to place the matter before a Policy Advisory Committee nevertheless.

## 7.6. Delegations, Decisions and Proceedings of the Executive

- 7.6.1. The Leader shall maintain a Scheme in Part B of this Constitution setting out which individual Members on the Executive, Committees of the Executive, Officers or Joint Arrangements are responsible for the exercise of particular Executive Functions.
- 7.6.2. No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, and no report prepared for them by Officers, unless: -
- (a) A report on the matter has previously been considered by a meeting of any Policy Advisory Committee;
  - (b) The matter is a reference to the Executive from another Committee, including the Overview & Scrutiny Committee, whose terms of reference allowed the matter to be considered;
  - (c) The matter was the subject of a particular pledge contained within the Administration's Programme approved by the Full Council and does not conflict with the Budget & Policy Framework;
  - (d) The matter was the subject of a Motion before Full Council referred directly to the Executive for consideration;
  - (e) The matter was the subject of a Member Agenda Item Request that has been considered by any Committee and that Committee has resolved to request an Officer's report on the matter be submitted directly to the Executive;
  - (f) The matter concerns a Nuisance or serious service failure and at least three (3) Members have submitted a request it be considered by the Executive;
  - (g) The matter is urgent and the Urgency Arrangements set out in the Executive Procedure Rules in Part C of the Constitution have been engaged.
- 7.6.3. Key Decisions and Other Material Decisions [which are made by members or member bodies](#) shall be made in public, either at a meeting of the Executive or at another meeting convened for the purpose of making the [decision](#). [This will not prevent all or part of matters being considered in private in accordance with the Access to Information Procedure Rules if confidential or exempt information is likely to be discussed but the decision will always be made in public.](#)

**Commented [SG15]:** How will this be dealt with in the context of decisions involving exempt information?

- 7.6.4. Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part C of this Constitution.

## 8. THE OFFICERS

### 8.1. Roles to be Appointed

- 8.1.1. The Council shall engage such staff as it considers necessary to carry out its functions.
- 8.1.2. The following shall be designated as Chief Officers: -
- (a) The Chief Executive (and Head of Paid Service);
  - (b) The Director of Finance & Business Improvement;
  - (c) The Director of Regeneration & Place;
  - (d) *[XX Insert Others]*
- 8.1.3. The following Statutory Officers must be appointed and/or designated: -
- (a) Head of Paid Service;
  - (b) Chief Financial Officer; and
  - (c) The Monitoring Officer
- 8.1.4. The role of Head of Paid Service may be undertaken by the same person, if a qualified accountant, who undertakes the role of Chief Finance Officer. The role of Monitoring Officer however must not be undertaken by a person also undertaking either the role of Head of Paid Service or the role of Chief Finance Officer.

**Commented [SG16]:** I believe that Cumbria CC did obtain an opinion from James Goudie QC that it would be unlawful to have the same person being CFO and HPS, notwithstanding that there was no explicit bar to this.

### 8.2. Appointments

- 8.2.1. The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in Part C of this Constitution.

### 8.3. Delegations to Officers

- 8.3.1. *[XX Purpose of delegation e.g. efficiency, service maintenance, not Policy]*
- 8.3.2. *[XX Specification in Part B]*

### 8.4. Principles of Officer Support of Member Bodies

In employing and organising Officer support for the different roles within the Council, the Council will follow a number of key principles with a view to delivering efficient and effective services:-

- 8.4.1. all Officers are employed by, and are accountable to, the Council as a whole, and the Council will both expect and respect the political neutrality of Officers in the discharge of their functions;
- 8.4.2. adequate support from Officers is provided for the discharge of all the functions of the Council and specifically the roles of the Council, the Committees, the Executive and individual Members representing their communities;
- 8.4.3. day to day managerial and operational decisions are the responsibility of the Council's Directors, Service Heads, and other Officers;
- 8.4.4. the Council seeks to avoid creating potential conflicts of interests for Officers arising from the separation of the Executive and Scrutiny roles; and
- 8.4.5. all Officers have access to appropriate training and development to help them support the various functions of the Council and its Members effectively.

**Commented [SG17]:** Presumably you do not have political assistants?

8.5. The roles, responsibilities and rights of Officers and Members are set out in the Protocol on Officer-Member Relations in Part E of this Constitution.

#### **8.6. Scope of Statutory Officer Roles**

- 8.6.1. The functions of the role of Head of Paid Service shall include reporting to Full Council on the manner in which the discharge of the functions of the Council is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- 8.6.2. The functions of the role of Monitoring Officer include: -
  - (a) Working with the Democracy & General Purposes Committee to maintain the Constitution;
  - (b) Ensuring lawfulness and fairness of decision making;
  - (c) Supporting the Standards Committee;
  - (d) Conducting investigations or instructing others to carry out investigations on his or her behalf;
  - (e) Advising whether Executive decisions are within the Budget and Policy Framework;
  - (f) Providing advice to Members and Officers.
- 8.6.3. The functions of the role of Chief Finance Officer include: -

- (a) Ensuring lawfulness and financial prudence of decision making
- (b) Administration of financial affairs
- (c) Contributing to corporate management
- (d) Providing advice
- (e) Giving financial information

**8.7. Conduct**

Officers will comply with the Officer's Code of Conduct in Part D of this Constitution and the Protocol on Officer/Member Relations set out in Part E of this Constitution.

**8.8. Structure**

The Head of Paid Service shall determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in an Annex to this Constitution.

**9. JOINT ARRANGEMENTS**

**9.1. Outline of Arrangements**

The Council and the Executive may: -

- 9.1.1. enter into arrangements or agreements with any person or body;
- 9.1.2. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- 9.1.3. exercise on behalf of that person or body any functions of that person or body.

**9.2. Joint Arrangements**

- 9.2.1. The Council may establish Joint Arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 9.2.2. The Executive may establish Joint Arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 9.2.3. Except as set out below, the Executive may only appoint members of the Executive to a joint committee and those members need not reflect the political composition of the Council as a whole.
- 9.2.4. The Executive may appoint Members to a joint committee from outside the Executive in the following circumstances:
  - (a) the joint committee has functions for only part of the area of the Borough, ~~and that area is smaller than two fifths of the Borough by area or population~~. In such cases, the Executive may appoint to the joint committee any Member whose Ward is wholly or partly contained within the area;
  - (b) the joint committee is between the County Council and this Borough Council only and relates to functions of the Executive of the county council. In such cases, the Executive of the County Council may appoint to the joint committee any Member for an electoral division which is wholly or partly contained within the area.

**Commented [SG18]:** I am still not sure where the 2/5 area requirement comes from?

In both of these cases the political balance requirements do not apply to such appointments.

- 9.2.5. Details of any Joint Arrangements including any delegations to joint committees are set out in Part B of this Constitution.

### 9.3. Access to information

- 9.3.1. The Access to Information Rules in Part C of this Constitution apply to any joint arrangements.

### 9.4. Delegation to and from other local authorities

- 9.4.1. The Council may delegate functions that are not Executive Functions to another local authority or, in certain circumstances, the Executive of another local authority.

- 9.4.2. The Leader or, in the absence of any direction by the leader to the contrary, the Executive, a member of the executive or a committee of the Executive may delegate Executive Functions to another local authority or the Executive of another local authority in certain circumstances.

- 9.4.3. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

**Commented [SG19]:** Is this intended to cover situations where it concerns purely an executive function/functions?

### 9.5. Contracting out

The Council (for functions which are not Executive Functions) and the Executive (for Executive Functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

**10. FINANCE, CONTRACT AND LEGAL MATTERS**

**10.1. Financial management**

The management of the Council’s financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part C of this Constitution.

**10.2. Contracts**

10.2.1. Every contract made by the Council will comply with the Contract Procedure Rules set out in Part C of this Constitution.

~~10.2.2. Any contract with a value exceeding £[xx] entered into on behalf of the Council in the course of the discharge of an Executive Function shall be made in writing. Such contracts must either be signed by at least two Officers of the Council or made under the common seal of the Council attested by at least one Officer.~~

**Commented [SG20]:** Not sure this part is necessary given that the statement is made that all contracts must comply with the Contract procedure Rules?

**10.3. Legal proceedings**

The Head of Mid Kent Legal Partnership is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or any part of it, or in any case where the Head of Mid Kent Legal Partnership considers that such action is necessary to protect the Council’s interests.

**Commented [SG21]:** I am still not clear whether this is an officer of the authority?

**10.4. Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Mid Kent Legal Partnership or other person authorised by him or her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

**10.5. Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Mid Kent Legal Partnership. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Mid Kent Legal Partnership should be sealed. The affixing of the Common Seal will be attested by the Head of Mid Kent Legal Partnership or some other person authorised by him or her.

## **PART C - RULES OF PROCEDURE**

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**C1. Council Procedure Rules**

**1. INTRODUCTION**

- 1.1. The Rules in this Chapter regulate the business at Full Council meetings. Other member bodies are subject to other Rules of Procedure set out later in this Part.
- 1.2. The purpose of these Rules is to ensure that the Council meeting: -
  - 1.2.1. Provides a forum for the debate of matters of concern to Local Residents; and
  - 1.2.2. Acts as a place at which Members who are not on the Executive are able to hold the Executive and others discharging functions to account.

**Commented [SG27]:** This is a slightly odd formulation. The primary forum for scrutinizing and holding the executive to account is the Overview and Scrutiny Committee not full council. And the purpose of the rules is really to regulate and manage the Council as a decision making forum.

**2. MEETINGS**

**2.1. Calling Annual and Ordinary Meetings.**

Subject to Rule 3 on the timing of the Annual Meeting, these meetings shall take place in accordance with a calendar of meetings agreed by Council Resolution.

**2.2. Calling of Extraordinary Meetings.**

The Proper Officer shall call an Extraordinary Meeting of the Council where requested by: -

- 2.2.1. the Council by resolution;
- 2.2.2. the Mayor;
- 2.2.3. the Monitoring Officer; and
- 2.2.4. any five (5) Members.

Any meeting should be held within 21 days of the receipt of the requisition, unless a resolution of the Council requesting a meeting does so in respect of some future date.

In the event that the Mayor refuses to call or does not call a meeting within seven (7) days of receipt of such a requisition, those members of the council, on that refusal or on the expiration of those seven (7) days, as the case may be, may forthwith call an Extraordinary meeting of the Council.

**2.3. Time & Place of Meetings**

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

**2.4. Notice of and Summon to Meetings**

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five (5) clear working days before a meeting, the Proper Officer will publish on the Council's website and send a summons signed by him or her electronically to every Member (or on request by post or by leaving it at their usual place of residence or other address). 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. No business other than that specified in the summons to the meeting may be considered at a meeting of the Full Council.

**2.5. Cancellation of Meetings**

In exceptional circumstances the proper officer may cancel or alter the time or location of any meeting.

**3. THE ANNUAL MEETING OF THE COUNCIL**

**3.1. Occurrence of the Annual Meeting.**

In a year when there is an ordinary election of Members, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Members. In any other year, the Annual Meeting will take place in March, April or May.

**3.2. Business of the Annual Meeting.**

The Annual Meeting will:

- 3.2.1. elect a person to preside if the Mayor and Deputy Mayor are not present, or if the Mayor is not present and the Deputy Mayor is to be a candidate for election as Mayor;
- 3.2.2. elect the Mayor;
- 3.2.3. consider whether any items should be taken in private because of the likely disclosure of Confidential or Exempt Information;
- 3.2.4. approve and sign the minutes of the last meeting;
- 3.2.5. appoint the Deputy Mayor;
- 3.2.6. receive any announcements from the Mayor;
- 3.2.7. receive congratulations from local scholars;

- 3.2.8. elect the Leader should the post have become vacant;
- 3.2.9. receive the Leader's appointment of Members to the Executive and scheme of delegation in respect of Executive Functions;
- 3.2.10. consider any motion moved by the Leader in respect of the Administration's Programme;
- 3.2.11. agree a Scheme of Seat Allocations for the Committees;
- 3.2.12. adopt the scheme of delegation in respect of non-Executive Functions;
- 3.2.13. consider any business set out in the summons convening the meeting; and
- 3.2.14. consider matters where confidential or exempt information may be revealed.

#### **4. BUSINESS OF ORDINARY MEETINGS**

Ordinary meetings will:

- 4.1. elect a person to preside if the Mayor and Deputy Mayor are not present;
- 4.2. receive any declarations of interest from Members and Officers and deal with any applications for dispensations;
- 4.3. receive any disclosures of lobbying by Members;
- 4.4. consider whether any items should be taken in private because of the likely disclosure of Confidential or Exempt information;
- 4.5. approve and sign the minutes of the last meeting;
- 4.6. receive any announcements from the Mayor;
- 4.7. receive any petitions or deputations;
- 4.8. receive questions from, and provide answers to, Local Residents in relation to matters which in the opinion of the Member presiding at the meeting are relevant to the business of the Council;
- 4.9. allow Local Residents to speak in accordance with Rule 13 on Public Speaking;
- 4.10. the following will receive and respond to questions from Members in chronological order of receipt:
  - 4.10.1. The Leader;

- 4.10.2. Member on the Executive with a portfolio to which the question relates,
- 4.10.3. Other Members who chair a Committee with terms of reference to which the question relates;
- 4.11. receive the Leader's Report on Current Issues and the Group Leaders' responses;
- 4.12. deal with any business from the last Council meeting;
- 4.13. consider any motion moved by the Leader in respect of the Administration's Programme where this has not hitherto been approved by the Council for the Municipal Year;
- 4.14. receive reports from the Executive or the Committees where there are recommendations for the Council to take a decision;
- 4.15. receive reports about the business of Joint Arrangements and external organisations which include matters for decision;
- 4.16. consider motions in the order in which notice has been received;
- 4.17. consider any other business specified in the summons to the meeting; and
- 4.18. consider matters where Confidential or Exempt information may be revealed.

## **5. QUORUM AT MEETINGS**

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

## **6. PRESIDING AT THE MEETING**

- 6.1. The Mayor or in his or her absence the Deputy Mayor will preside at meetings of the Council.
- 6.2. If both the Mayor and the Deputy Mayor are absent, the Members present at the meeting will choose another Member to preside: -
  - 6.2.1. any power or duty of the Mayor to conduct a meeting including exercising a second or casting vote, may be exercised by the Member presiding at the meeting;
  - 6.2.2. if the Mayor or Deputy Mayor arrive after the start of the meeting the Member then presiding will vacate the chair and the Mayor or Deputy Mayor will take the chair.

## **7. DURATION OF MEETINGS**

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- 7.1. Each unfinished meeting will adjourn at 10.30 pm unless a majority of Members present vote to extend the meeting to 11.00 pm at which time the meeting will stand adjourned;
- 7.2. The time and date of the continuation of the adjourned meeting will be decided by a majority of those Members present, or if no decision is reached, by the Proper Officer in consultation with the Mayor and Leader, and it should normally take place within ten (10) working days of the meeting.

## **8. PRESENTATION OF PETITIONS**

- 8.1. Appendix A sets out the nature of those petitions received by the Council that are to be considered by the Full Council.
- 8.2. No more than three (3) petitions may be presented per meeting.
- 8.3. Where a petition is presented: -
  - 8.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.
  - 8.3.2. At a Council meeting, at the conclusion of the speech of the presenter, a debate will take place on the petition for up to a period of twenty minutes or if the petition has at least 1,500 signatures, with no time limit on the debate. The debate should take place with the intention that the petition and the views of the Council will then be referred to the appropriate Committee. The debate will be subject to normal council debating rules with the exception that at the end of the debate no vote will be taken, but the petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.
  - 8.3.3. If the Mayor determines that it is inappropriate to debate the petition as a separate item at Full Council, then the petition will be considered later at the same Council meeting in conjunction with any report that has been placed on the agenda concerning the matter raised in the petition.
  - 8.3.4. Any report relating to the subject matter of the petition will be placed on the agenda immediately following the presentation of petitions or in the order petitions are presented if more than one petition is presented at the meeting.

- 8.4. Petitions which are not to be presented in person at meetings of the Council will be reported to it. Debate shall take place as per Rule 8.3 above, save that there will be no speeches by a presenter.

**9. QUESTIONS ON NOTICE**

- 9.1. At every Ordinary meeting of the Council, save for the Annual meeting, there shall be: -
- 9.1.1. A one (1) hour session for Local Residents; followed by
  - 9.1.2. A half-hour session for Members
- to pose Questions on Notice concerning the business of the Council.
- 9.2. The questions may be asked of: -
- 9.2.1. The Leader;
  - 9.2.2. A Lead Member to whose portfolio the question relates;
  - 9.2.3. Other Members who chair a decision-making Committee with terms of reference to which the question relates.
- 9.3. Appendix B on Questions from Notice sets out the process for giving notice of such questions prior to the Council Meeting and record keeping subsequent to the meeting.
- 9.4. **Order of Questions**
- Questions will be asked of the relevant Members in the order that notice of them was received, except that the Mayor may group together similar questions.
- 9.5. **Posing a Question at the Meeting**
- The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.
- 9.6. **Supplementary Questions**
- A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

**9.7. Nature of Reply**

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

**10. LEADER'S REPORT ON CURRENT ISSUES**

- 10.1. At every Ordinary Meeting of the Council except the Annual Meeting, the Leader shall report to the Council on current issues. The leaders of every other Political Group shall then have the right to respond, focusing primarily but not exclusively on the issues raised by the Leader. Each statement may last for up to five minutes.
- 10.2. After the Leader and the other Group Leaders have spoken, the Mayor will open the item to questions from Members for a period of fifteen (15) minutes. Questions may be on any subject relevant to the role of the Leader.

**11. INVITATION OF THIRD PARTIES TO COUNCIL**

- 11.1.1. An Ordinary Meeting of Council may invite, through the Leader or Mayor, a third party to attend a meeting to speak and answer questions on a particular item on the agenda.
- 11.1.2. An item on the agenda of an Ordinary Meeting of Council may be deferred if Council agrees that a third-party contribution to the discussion is necessary.

**12. MOTIONS ON NOTICE**

- 12.1. Subject to the exceptions listed in Rule 12.4 below, written notice of every motion must be delivered to the Proper Officer not later than six (6) clear working days before the meeting of the Council at which it is to be moved. Motions will be set out in the summons for the Council in the order received, with the names of the signatories, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.
- 12.2. A Notice of Motion requires signing by at least one third of the Members of the Council where the matter is subject to the limitations in Rule 17.
- 12.3. Notices of Motions will be entered in a book open to public inspection.
- 12.4. Exceptions to the requirement for written notice include: -

- 12.4.1. Motions in respect of reports by Committees or the Executive as per Rule 14;
- 12.4.2. Procedural Motions as per Rule 15.
- 12.5. Proposals for the Administration's Programme for the Municipal Year must similarly be made in writing and submitted to the Proper Officer by 4pm three (3) Clear Days before the day of the meeting where this is listed as an agenda item. Such proposals may only be submitted by the Leader or by a Member identifying themselves on the public record as a candidate for election as Leader at the coming meeting.
- 12.6. Amendments to the recommended Budget, or alternative proposals, are to be made in writing and delivered to the Proper Officer by 4pm on the Monday before the meeting. In proposing any changes to the Budget any amendment must ensure that the proposal achieves a balanced budget.
- 12.7. If a motion set out in the summons is not moved at the meeting by a Member who gave notice, or by another Member, it will be deemed withdrawn unless deferred by the Council.
- 12.8. If the subject of a motion concerns a matter of a quasi-judicial nature, and the matter appears within the competence of a Committee or other Member body, at the meeting the Mayor shall declare the motion referred to that Committee or Member-body without debate, and the motion shall be so referred. If the subject of the motion is any other matter of a quasi-judicial nature, at the meeting the Mayor shall refer the matter to the relevant Officer(s) and declare the motion disposed of.
- 12.9. If the subject of a motion comes within the province of any Executive Function, at the meeting: -
  - 12.9.1. The Mayor shall first allow for a debate.
  - 12.9.2. If the Member moving the motion so proposes, and the Member seconding the motion is in agreement, the Mayor shall call a vote on whether to refer the matter directly to the Executive for consideration.
    - (a) Should Council so resolve, the motion shall be referred.
    - (b) Should Council refuse to so resolve, the motion shall be deemed to have fallen.
  - 12.9.3. If there is no proposal to refer the matter directly to the Executive, the Mayor shall refer the matter to the relevant Policy Advisory Committee.
- 12.10. If the subject of a motion concerns a matter within the competence of any other Committee: -

12.10.1. The Mayor shall first allow for a debate;

12.10.2. The Mayor shall then declare the motion referred to the relevant Committee for consideration.

12.11. For the purposes of Rule 12.10, any motion that seeks to amend any Provision within Part A of this Constitution, or any Rule within Part C of this Constitution, shall be regarded as within the competence of the Democracy & General Purposes Committee.

12.12. Every motion must be relevant to the Council's powers or duties or to a matter which affects the Borough.

12.13. Any motion which in the opinion of the Proper Officer after consultation with the Head of Legal Partnership is out of order, or illegal, will be submitted to the Mayor who will decide whether it is accepted and the Proper Officer will notify the Member(s) accordingly.

12.14. This Rule 12 is subject to the over-riding requirement that any motion before the Full Council concerning a Member's rights to access information or documents must be determined by the Full Council.

**Commented [SG28]:** This will need to be considered alongside the Access to Information Procedure Rules

### **13. PUBLIC SPEAKING AT COUNCIL**

Where the meeting is open to the public, a Local Resident or a representative of a local organisation may speak at the invitation of the Mayor in respect of an item on the agenda. Notice of a request to speak must be given to Democratic Services by no later than 4pm one clear working day before the relevant meeting. Public speaking is subject to the following time limits:

13.1. The total time for speaking on an item on the agenda is twelve (12) minutes; within that twelve (12) minute period, each speaker has a maximum of three (3) minutes.

13.2. In addition to the twelve (12) minutes, a relevant Parish Council representative may be allocated a maximum of three (3) minutes each; where there are several such speakers, they will be asked by the Proper Officer to appoint a single spokesperson to represent all views.

13.3. When these times have expired, speakers will not be allowed to speak further unless asked by the Mayor to clarify a point of fact.

### **14. REPORTS BY COMMITTEES AND THE EXECUTIVE**

14.1. The Council will consider reports by Committees who are empowered to make recommendations to the Council and also reports of the Executive making recommendations. Motions concerning such reports, where the

subjects of these reports are included in the Summons for the purposes of Rule 2.4, do not require notice for the purposes of Rule 12.

## **15. RULES OF DEBATE**

### **15.1. 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.

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

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

### **15.3. Secunder's speech**

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

### **15.4. Content and length of speeches**

Speeches must be directed to the matter under discussion or to a personal explanation or point of order. No speech may exceed three (3) minutes without the consent of the Mayor, except when moving a motion submitted in accordance with Rule 12 or Rule 14 above, when the mover will be entitled to speak for five (5) minutes, or except when a Group Leader is moving his or her Group's budget proposals at the Budget Making Council, or the Leader is moving the Administration's Programme, when the mover will be entitled to speak for ten (10) minutes.

### **15.5. 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:

15.5.1. to speak once on an amendment moved by another Member;

15.5.2. to move a further amendment if the motion has been amended since he or she last spoke;

15.5.3. if his or her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);

- 15.5.4. in exercise of a right of reply;
- 15.5.5. on a point of order; and
- 15.5.6. by way of personal explanation.

#### 15.6. **Amendment to motions**

- 15.6.1. An amendment to a motion must be relevant to the motion and will either be:
  - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add wordsas long as the effect of (b) to (d) is not to negate the motion.
- 15.6.2. 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.
- 15.6.3. If an amendment is not carried or accepted by the motion's proposer and seconder, other amendments to the original motion may be moved.
- 15.6.4. If an amendment is carried, or accepted by the motion's proposer and seconder, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 15.6.5. If there are no further amendments the Mayor will put the substantive motion to the vote.

#### 15.7. **Alteration of motion**

- 15.7.1. A Member may when moving a motion of which he or she has given notice under Rule 12, alter it with the consent of the meeting and the other signatories. The meeting's consent will be signified without discussion.
- 15.7.2. A Member may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

15.7.3. Only alterations which could be made as an amendment may be made.

**15.8. Withdrawal of motion**

A Member may withdraw a motion which he or she has moved with the consent of the seconder. No Member may speak on the motion after the mover has withdrawn it.

**15.9. Right of reply**

15.9.1. 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.

15.9.2. The mover of the amendment has a right of reply to the debate on his or her amendment (before the right of reply of the mover of the original motion).

15.9.3. 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, if he or she has spoken on it.

**15.10. Motions which may be moved during debate**

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

- (a) to amend a motion;
- (b) a Closure motion (as below);
- (c) to move;
- (d) that the meeting continue until 11.00pm;
- (e) to exclude the public and press in accordance with the Access to Information Rules;
- (f) to not hear further from a Member named under Rule 16.3 or to exclude them from the meeting under Rule 16.4;
- (g) to suspend a particular Council procedure rule;
- (h) to give the consent of the Council where its consent is required by this Constitution;
- (i) to extend the time limit for speeches;
- (j) to determine the time and date of the adjourned meeting in accordance with Council procedure Rule 7.2; and
- (k) to put the motion in parts to the vote.

**15.11. Closure motions**

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

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

15.11.2. If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right to reply and then put the procedural motion to the vote.

15.11.3. If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed he or she will give the mover of the original motion a right to reply before putting his or her motion to the vote.

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

**15.12. Point of order**

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules, the rest of the Constitution, or the law. The Member must indicate the Provision, Rule or law and the way in which he or she consider it has been broken. The ruling of the Mayor on the matter will be final.

**15.13. Personal explanation**

A Member may make a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member (whether or not made at the meeting) which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

**16. CONDUCT OF ELECTED MEMBERS**

**16.1. Standing to speak**

When a Member speaks at Full Council they must usually stand and address the meeting through the Mayor. If more than one Member stands, the Mayor 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 personal explanation.

**16.2. Mayor standing**

When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

**16.3. Member not to be heard further**

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

**16.4. Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor 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.

**16.5. General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he or she thinks necessary, or may adjourn and re-convene elsewhere.

**17. PREVIOUS DECISIONS & MOTIONS****17.1. 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 one third of the whole number of the Council.

**17.2. Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the whole number of the Members.

**18. VOTING**

18.1. Unless this Constitution or the law 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.

**18.2. Mayor's casting vote**

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote, regardless of whether he or she has used his or her first vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

**18.3. Means of Voting**

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

**18.4. Recorded vote**

If five Members present at a Council meeting, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

**18.5. Right to require individual vote to be recorded**

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

**18.6. Recorded votes at Budget meetings**

Immediately after any vote is taken at a Budget Decision Meeting, on any decision related to the making of the calculation or the issuing of the Council Tax as the case may be there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

**18.7. 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.

**19. MINUTES**

**19.1. Signing the minutes**

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

**19.2. No requirement to sign minutes of previous meeting at extraordinary meeting**

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

**19.3. Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them and shall record all questions and answers in accordance with Rule 9.

**20. RECORD OF ATTENDANCE**

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

**21. EXCLUSION OF PUBLIC & RECORDING OF MEETINGS**

- 21.1. Members of the public and press may only be excluded in accordance with the Access to Information Rules in Part C of this Constitution or Rule 23 (Disturbance by Public).
- 21.2. Any member of the public or press attending meetings of the Council may record such meetings in open session using whatever non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media. Anyone filming a meeting is asked to focus only on those actively participating
- 21.3. Recording of any part of a meeting held in closed session is not permitted.
- 21.4. All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting signifies consent to this.

**22. DISCLOSURE OF INTERESTS**

- 22.1. A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:
- 22.1.1. disclose the interest; and
  - 22.1.2. explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to Rule 22.3 below); and unless they have been granted a dispensation;
  - 22.1.3. not participate in any discussion of, or vote taken on, the matter at the meeting unless they have been granted a dispensation; and
  - 22.1.4. withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
  - 22.1.5. not seek improperly to influence a decision about that business.
- 22.2. A Member with an Other Significant Interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.
- 22.3. Where a Disclosable Pecuniary Interest or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.

## **23. DISTURBANCE BY PUBLIC**

### **23.1. Removal of member of the public**

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

### **23.2. Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared and may adjourn the meeting and/or re-convene elsewhere.

## **24. SIGNATURES OF MEMBERS**

Where any of these Rules require a Member to sign or consent to a document or requisition to be provided to the Proper Officer, an authentic email message from that Member shall suffice. Where there is a requirement for more than one (1) Member to sign or consent to a document or requisition, the Members may indicate the same to the Proper Officer through multiple counterparts.

**25. SUSPENSION OF THESE RULES**

All of these Council Procedure Rules except Rules **16.2, 18.5, 18.6** and **19.2** may be suspended by motion on notice or without notice if at least one half of the whole number of Members are present and the majority present approve. Suspension can only be for the duration of the meeting.

## Appendix A: The Council's Petition Scheme

### Para.

### *Appendix A: Petitions*

1. The Council welcomes petitions from Local Residents. Subject to Para.2 below, all petitions received by the Council that are signed by at least 100 Local Residents will be presented or reported to the relevant Member body.
2. The Member body to which a petition is presented or reported shall depend on whether or not it pertains to an Executive Function and the number of signatories.
  - 2.1. For Executive Functions where the number of signatories is at least ~~2001,000~~ Local Residents, the petition shall go to the Executive.
  - 2.2. For Executive Functions where the number of signatories is fewer than ~~2001,000~~ Local Residents, the petition shall go to the relevant Committee.
  - 2.3. For non-Executive Functions where the number of signatories is at least ~~2001,000~~ Local Residents, the petition shall go to Full Council.
  - 2.4. For non-Executive Functions where the number of signatories is fewer than ~~2001,000~~ Local Residents, the petition shall go to the relevant Committee. Where the petition concerns a matter not otherwise within the competence of a Committee, the petition shall go to the Democracy & General Purposes Committee.
3. If so required by a signatory to a petition, it may be presented in person at meetings of the relevant Member body, subject to compliance with the following procedure:-
  - 3.1. The wording of the petition to be presented to be presented must be given in writing to the Proper Officer at least two (2) weeks before the day of the meeting. Ward Members will be notified of the wording of petitions when received;
  - 3.2. If a petitioner has submitted a petition of at least 100 signatures requesting a Senior Officer of the Council to attend, give evidence and provide information on activities for which they are responsible, then that Senior Officer will attend;

**Para.****Appendix A: Petitions**

- 3.3. Petitions must be presented to the Proper Officer at least one (1) clear day before the day of the meeting (i.e. two days) of the relevant Member body;
- 3.4. No more than three (3) petitions may be presented per meeting;
- 3.5. If more than one petition is notified to the Proper Officer to the same meeting, they shall rank in order of priority according to the time of notice given;
- 3.6. No petition may be presented relating to an application for a licence;
- 3.7. No petition may be presented to the Annual Meeting of the Council or to any meeting of the Audit, Governance and Standards Committee.
4. Petitions which are not to be presented in person at meetings of the Council or appropriate Committee will be reported to that body.
5. Provision will be made for a facility to submit petitions electronically.
6. Any checking or sampling of signatories by Council Officers to verify the number of signatories shall give due consideration to the rights of younger Local Residents whose names may not yet appear on the Electoral Roll on account of their age.

## Appendix B: Questions on Notice

Para.

### **Appendix B: Questions on Notice**

1. **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing (including by electronic mail) to the Proper Officer no later than close of the office one clear working day before the day of the meeting. Each question must give the name and address of the questioner and must name the relevant Member to whom it is to be put.

2. **Number of questions**

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

3. **Scope of questions**

The Proper Officer may reject a question if in his or her opinion:

- 3.1. it is not about a matter for which the Council has a responsibility or that affects the Borough;
- 3.2. it is defamatory, frivolous or offensive;
- 3.3. it cannot be answered with sufficient accuracy without unacceptable disclosure of Confidential or Exempt information;
- 3.4. the Local Resident seeking to ask a question has previously withdrawn questions on three consecutive occasions, any further question from that person will be refused unless that person confirms in writing that they will be attending the meeting to ask the question. If that person does not attend the meeting after confirming they will do so, no further action will be taken with regard to that question.
- 3.5. the question has been asked at a previous meeting of the Council either in the exact or similar form and/or;
- 3.6. the question concerns a planning matter about which questions have been posed at the last two (2) meetings of the same Member body, or at two (2) out of the last three (3) such meetings;
- 3.7. the Council has resolved the issue raised and the question has been brought to a close.

**Para. *Appendix B: Questions on Notice*****4. Record of questions**

The Proper Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include the reasons for rejection. Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

**6. Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer that is sent to the questioner. The written response will be included in the minutes with a note that a written response was given either because of a lack of time or because the relevant Member was not present.

**7. Response to Questions**

- 7.1. Where the question is discussed and answered during the meeting, the responses to the questions will not be minuted, as the Council webcasts its meetings so there is already a full record of the response. The minutes will state whether the Member responded to the question or not and will refer the public to the webcast for the full response.
- 7.2. If the webcast has failed prior to the start of the meeting, a summary of the answer will be included in the minutes.

**C2. Committee Procedure Rules**

**1. INTRODUCTION & PURPOSE**

- 1.1. The Rules in this Chapter regulate the business of the Committees and may be cited as the Committee Procedure Rules. They also apply to any Sub-Committee with any such qualification or modification as may be specified or evident from the context.
- 1.2. The purpose of these Rules is to ensure that the Committees: -
  - 1.2.1. Function smoothly and efficiently;
  - 1.2.2. Reflect the political balance of the Council as whole, as far as possible and in accordance with the law;
  - 1.2.3. Act as a place at which Members, including those who are not on the particular Committee, are able to raise matters of concern;
  - 1.2.4. Enhance the quality & transparency of decision-making, especially in respect of Executive Functions;
  - 1.2.5. Are accessible directly to Local Residents.

**2. APPOINTMENTS TO COMMITTEES**

2.1. Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the

2.1. Council, in accordance with the legislation and rules on political balance. The Proper Officer shall appoint Members to Committees in accordance with the wishes of the Group Leaders and the Scheme of Seat Allocations agreed by Full Council.

- 2.2. Any Member on a Committee may give notice to the Proper Officer of his or her resignation from a particular Committee of which he or she is on.
- 2.3. A Group Leader may request, and the Proper Officer shall give effect to, the removal from a particular Committee of a Member belonging to his or her Political Group, subject to the Group Leader also requesting that an alternative Member belonging to his or her Political Group be appointed to that Committee.
- 2.4. **Co-Option of Non-Members**

The Overview and Scrutiny Committee, the Audit, Governance & Standards Committee, or any sub-committee of either, shall be entitled to recommend to Council the appointment to it of people as [XX non-voting?] co-optees.

**Formatted:** No bullets or numbering

**Commented [SG29]:** Strictly Council appoints committees and members though it must give effect to the proportionality rules in the 1989 Act and regulations. The wording in the current constitution, "Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the Council." Is a more accurate representation of the law.

**2.5. Members as Substitutes on Committees**

- 2.5.1. For each Committee, the Proper Officer shall appoint a minimum of the three (3) Members belonging to each Political Group, up to the number of committee seats allocated to that Political Group, who may act as Substitutes on that Committee.
- 2.5.2. A Member who acts as a Substitute on a Committee may sit at meetings of that Committee in place of a Member on that Committee belonging to the same Political Group ("Full Member"), where that Full Member is either absent from that meeting or opts to attend that meeting as a Visiting Member instead.
- 2.5.3. A Member attending a meeting as a Substitute will have all the powers and duties of a Member ordinarily on that Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting for.
- 2.5.4. Members may attend meetings as Substitutes only:
  - (a) if the substitution is notified when the item is called on the agenda;
  - (b) if the Full Member arrives after the substitution has been made, and opts to take his or her seat, and no other Full Members belong to that Political Group are absent, the substitution shall end and the Member attending as a Substitute shall cease to sit on the Committee and shall be deemed a Visiting Member.
  - (c) if the Full Member leaves before the conclusion of the meeting a substitution can be made if it has been notified when the item is called on the Committee agenda.

**Commented [SG30]:** What if a group does not have 3 members who can act as substitutes? In the current constitution it is up to 6. Also in my view it would be better if these were appointed by full council, though the law on substitutes generally is a little vague.

**Commented [SG31]:** Whilst the law is not clear on this point it is in my view doubtful whether substitution for a single item or part of a an agenda as opposed to the meeting as a whole would be lawful. It is not a practice I am aware of other authorities adopting.

**3. CHAIRING OF COMMITTEES**

**3.1. Committee Chairmen and Vice-Chairs to be Committee Members**

No Member may serve as the Chairman or vice-Chair of any Committee unless he or she is on that Committee. Where a Member serves as Chairman or vice-Chair of a Committee, and then ceases to be on that Committee, he or she shall cease to be the Chairman or the vice-Chair (as the case may be).

**3.2. Policy Advisory Committees**

3.2.1. The Chairman of each Policy Advisory Committee for the Municipal Year shall be the ~~Member~~ appointed by ~~the Committee. the Executive in line with Provision 6.2, Chapter A2 of this Constitution.~~ The ~~Executive Committee~~ may revise this

appointment during the course of the Municipal Year.

**Commented [SG32]:** See comment above re chairmen of PACs

- 3.2.2. The vice-Chair of each Policy Advisory Committee shall be elected by the Members on that Committee at their first meeting of the Municipal Year using the following procedure. The purpose of this procedure is to give preference to Members who belong to non-Administration Political Groups.
- (a) Nominations will open firstly to Members on the Committee who belong to non-Administration Political Groups.
  - (b) Should more than one Member be nominated at this stage, there shall be a vote amongst all Members on the Committee to elect the vice-Chair from those nominated.
  - (c) Alternatively, should just a single Member be nominated at this stage, the Member so nominated shall be declared elected vice-Chair.
  - (d) Alternatively, should no Members be nominated at this stage, nominations will then be opened to all Members of the Committee and a vice-Chair elected accordingly.

### 3.3. Overview and Scrutiny Committee

- 3.3.1. The Chairman of the Overview & Scrutiny Committee shall be elected by Members on that Committee at their first meeting of the Municipal Year using the following procedure. The purpose of this procedure is to give preference to Members belonging to the largest non-Administration Political Group.
- (a) Nominations will open firstly to Members on the Committee who belong to the largest non-Administration Political Group.
  - (b) Should more than one Member be nominated at this stage, there shall be a vote amongst all Members on the Committee to elect the Chairman from those nominated.
  - (c) Alternatively, should just a single Member be nominated at this stage, the Member so nominated shall be declared elected as Chairman.
  - (d) Alternatively, should no Members be nominated at this stage, the process shall be attempted again with nominations opened to Members on the Committee belonging to all non-Administration Party Groups.
  - (e) Should this stage also fail to attract any nominations, the process shall be attempted again with nominations opened to all Members on the Committee.

3.3.2. The vice-Chair of the Overview & Scrutiny Committee shall be elected by the Members on the Committee at their first meeting of the Municipal Year with nominations open to all Members on the Committee (save for the Chairman).

3.4. **Other Committees**

All other Committees shall elect a Committee Chairman and a vice-Chair at the first meeting of the Municipal Year with nominations open to all Members on the Committee.

3.5. **Vacancies Arising**

A vacancy arising during the Municipal Year in respect of a Committee Chairman or vice-Chair shall be filled using the same procedure for appointment or election applying at the beginning of the Municipal Year with any election taking place at the next meeting of the Committee.

3.6. **Chairing Meetings**

3.6.1. The Committee Chairman shall chair each meeting of that Committee. In his or her absence, the vice-Chair shall chair the meeting unless the vice-Chair opts to remain at the meeting but not take the chair.

3.6.2. Where the Committee Chairman is both absent from a meeting of the Committee, and the vice-Chair is also absent or is present but opts not to take the chair, and the meeting is nevertheless quorate, then: -

- (a) The Members on the Committee who are present shall elect of their number to chair the meeting;
- (b) Should the Committee Chairman or a previously absent vice-Chair subsequently arrive, he or she shall take the chair for the remaining duration of the meeting and the Member elected in (a) shall vacate the chair.

3.6.3. The process in Rule 3.6.2(a) shall apply where either the Committee Chairman or the vice-Chair has been chairing a meeting but had to leave resulting in both being absent or in the Chairman being absent and the vice-Chair opting not to take the chair.

4. **HOLDING OF MEETINGS**

4.1. Ordinary meetings of the Committees shall be held according to a calendar of meetings agreed by resolution of the Council.

- 4.2. The Proper Officer may, after consulting the Chairman and vice-Chair of a Committee, cancel or postpone any meeting of that Committee.
- 4.3. The Proper Officer may, after consulting the Chairman and vice-Chair of a Committee, call a special meeting of that Committee.
- 4.4. The Proper Officer shall call a special meeting of a Committee where one is requested by:
  - 4.4.1. the Chairman;
  - 4.4.2. Full Council; or
  - 4.4.3. The Monitoring Officer.
- 4.5. The Proper Officer shall call a special meeting of a Committee where: -
  - 4.5.1. At least three (3) Members on that Committee sign a requisition for such a meeting; and
  - 4.5.2. The requisition specifies matters for consideration that are within the terms of reference or competence of that Committee, and are: -
    - (a) sufficiently urgent such that it would be un-reasonable to wait until the next Ordinary meeting, or
    - (b) are of a size & significance relative to the forecast workload of the next Ordinary meeting such as to warrant a Special meeting.
- 4.6. The Proper Officer shall call a meeting of the Overview & Scrutiny Committee within five (5) working days of a call-in being received.

## **5. NOTICE OF MEETINGS AND BUSINESS TO BE DISCUSSED**

- 5.1. The agenda for any Committee meeting shall be set following discussion between the Committee Chairman, the vice-Chair, and Officers.
- 5.2. The agenda shall accommodate: -
  - 5.2.1. For any Policy Advisory Committee, the Forward Plan set by the Executive;
  - 5.2.2. For all Committees, any: -
    - (a) Member Agenda Item Requests,
    - (b) Motions referred to that Committee following Full Council,
    - (c) Previous resolutions of that Committee in respect of its Work Programme;
  - 5.2.3. In respect of the Overview & Scrutiny Committee, any: -

- (a) Call-in by a Member,
- (b) Any Member "call for action".

### 5.3. **Summons & Notice**

- 5.3.1. The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five (5) Clear Days before a meeting (or if a meeting of a Committee or Sub-Committee is called at shorter notice, as soon as the meeting is called), the Proper Officer will publish on the Council's website and send a summons signed by him/her electronically to every Member of the Council (or on request by post or by leaving it at their usual place of residence/other address).
- 5.3.2. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Where not all of the reports are available with the summons they will be posted on the Council's website as soon as they become available and e-mailed or posted to Members.

## 6. **MEMBER AGENDA ITEM REQUESTS**

- 6.1. Any Member may ask that a particular matter is added as an item to the agenda of a Committee, subject to: -
  - 6.1.1. The matter being relevant to the Committee's terms of reference;
  - 6.1.2. Written notice of the request is provided to the Proper Officer by the ordinary deadline of 4pm, six (6) clear days before the meeting is to be held;
  - 6.1.3. Notice may be accepted after closure of the ordinary deadline where, in the opinion of the Committee Chairman and vice-Chair, the Member is able to demonstrate that the matter: -
    - (a) Only came to his or her attention around or after the ordinary deadline; and
    - (b) It is of an apparent immediacy or is likely to command sufficient public concern, that it cannot wait until the meeting of the Committee after the next one.
  - 6.1.4. The matter should not be such that it is judged by the Committee Chairman and vice-Chair, in agreement, as being

defamatory or offensive or otherwise unlawful, having consulted the Proper Officer and the Monitoring Officer.

- 6.2. A Member Agenda Item Request may also be contained within a requisition signed by three (3) Members on a Committee requesting a special meeting.
- 6.3. Where an item is added to the agenda of a Committee as a result of a Member Agenda Item Request:
  - 6.3.1. The Committee shall be able to debate the principles of the matter, with or without Officer input.
  - 6.3.2. The Member raising the Member Agenda Item Request shall have the right to both introduce the item and the right to reply to the debate at its conclusion as the last speaker on the item. This shall apply even where that Member is attending as a Visiting Member.
- 6.4. There is no expectation for Officers to provide a report concerning a Member Agenda Item Request ahead of the meeting at which the item is first discussed. Where one is provided however, the Committee has the freedom to deal with the matter like any other agenda item supported by an Officer's report.
- 6.5. Where a Member Agenda Item Request leads to consideration of the item by a Committee without an Officer's report, the Committee may only: -
  - 6.5.1. For any type of Committee, resolve to request that an Officer's report be provided to a future meeting of the Committee, on which occasion it may then be debated and dealt with by the Committee as any other agenda item supported by an Officer's report.
  - 6.5.2. For a Policy Advisory Committee, request that an Officer's report be prepared and submitted with the item directly to the Executive for consideration.
  - 6.5.3. Conclude the debate with no further action agreed for the time being.

## **7. ATTENDANCE AT MEETINGS**

### **7.1. Committees Generally**

- 7.1.1. A Committee shall be clerked by a Democratic Services Officer.
- 7.1.2. A Committee may invite such further Officers as are necessary for the presentation of Officer Reports or to inform discussion in respect of agenda items.

- 7.1.3. A Committee may invite a third party to attend a meeting to speak and answer questions on a particular item on the agenda.
- 7.1.4. An item on the agenda may be deferred if the Committee agrees that a third-party contribution to the discussion is necessary.

## 7.2. **At Overview & Scrutiny Committee**

- 7.2.1. The Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member on the Executive, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:
  - (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performanceand it is the duty of those persons to attend if so required.
- 7.2.2. The appropriate "senior Officer" shall be identified following consultation with the Chief Executive.
- 7.2.3. Where any member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or Officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. (A shorter period of notice may be given with the agreement of the member or Officer in question.) The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 7.2.4. Where, in exceptional circumstances, the member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or Officer arrange an alternative date for attendance.

## 7.3. **Visiting Members**

- 7.3.1. At each meeting of each Committee, it shall be an early agenda item for the Member chairing the meeting to ask any Visiting Members to introduce themselves and state the agenda item(s) to which he or she intends speaking.
- 7.3.2. Subject to Rules 7.3.3 & 7.3.4 below, any Member may attend any meeting of a Committee or Sub- Committee on which he or she does not sit on in order to speak on particular items provided he or she specifies those items at the point in the meeting when Visiting Members are asked to introduce themselves.
- 7.3.3. No other Member except for those on the Committee may attend and/or speak on: -
  - (a) Panels or sub-committees of any Member body relating to employment functions;
  - (b) hearings in respect of individual applications before the Licensing Committee or Sub-Committee, other than to observe proceedings only for training purposes with leave of the Member chairing the meeting having consulted the legal officer attending;
  - (c) the Hearings Sub-Committee of the Audit, Governance and Standards Committee when it is considering allegations of misconduct; or any other panel hearing or appeal.
- 7.3.4. To speak on an item at the Planning Committee, notice must be given to the Proper Officer by 4pm on the preceding working day.
- 7.3.5. Visiting Members speak after the Officer introduction on an item, but before the general debate.
- 7.3.6. Having spoken, the Visiting Member will not participate further unless:
  - (a) the Member chairing the meeting agrees, or
  - (b) the item arises from a motion that the Visiting Member moved at Full Council, or the item arises from a Member Agenda Item Request raised by that Visiting Member, in which event the Visiting Member shall have a right to reply at the end of the debate and immediately before any motion is put to the vote.

## **8. CONDUCT OF COMMITTEE MEETINGS**

### **8.1. Quorum**

The quorum of a meeting will be at least one quarter of the whole number of Members provided that: -

- 8.1.1. the quorum of the Trustee Committee is not less than three (3) Members;
- 8.1.2. the quorum of the Overview & Scrutiny Committee is not less than five (5) Members;
- 8.1.3. the quorum of any other Committee is not less than four (4) Members; and
- 8.1.4. The quorum of a Sub-Committee is not less than two (2) Members.

## 8.2. **Standing Items**

Before any substantive items are considered, the following items shall be considered at each meeting of any Committee: -

- 8.2.1. Apologies for absence;
- 8.2.2. Notification of substitute Members sitting;
- 8.2.3. Disclosures of interest;
- 8.2.4. Declarations of lobbying from interested parties or objectors in respect of any particular agenda item;
- 8.2.5. Minutes of the previous meeting(s);
- 8.2.6. Any petitions, in accordance with Rule 9;
- 8.2.7. Any Questions on Notice from Local Residents;
- 8.2.8. Any Questions on Notice from Members.

Save that petitions and questions maybe omitted at the first meeting of the Municipal Year if convened only for the purpose of electing the Chairman and/or vice-Chair.

## 8.3. **Recording of Meetings**

- 8.3.1. Any member of the public or press attending meetings of the Council may record such meetings in open session using whatever non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media. Anyone filming a meeting is asked to focus only on those actively participating

- 8.3.2. Recording of any part of a meeting held in closed session is not permitted.
- 8.3.3. All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting signifies consent to this.

#### 8.4. **Exclusion of the Public & Press**

In accordance with the Access to Information Procedure Rules, a Committee meeting: -

- 8.4.1. Shall go into closed session where Confidential Information is to be discussed
- 8.4.2. May go into closed session where Exempt Information is to be discussed

in relation to an item.

This means that the press and members of the public shall be excluded from the meeting. No such exclusion however shall apply to any elected Member, including any Visiting Member.

**Commented [SG33]:** See comments above re member access to information.

#### 8.5. **Duration of Meetings**

- 8.5.1. Each unfinished meeting will adjourn at 10.30 pm unless a majority of Members present vote to extend the meeting to 11.00 pm at which time the meeting will stand adjourned;
- 8.5.2. The time and date of the continuation of the adjourned meeting will be decided by a majority of those Members present, or if no decision is reached, by the Executive in the case of a Policy Advisory Committee or the Proper Officer in the case of any other Committee, and it should normally take place within ten (10) working days of the meeting.

#### 8.6. **Removal of member of the public**

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

#### 8.7. **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Member chairing the meeting may call for that part to be cleared and may adjourn the meeting and/or re-convene elsewhere.

#### 8.8. **Minutes**

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- 8.8.1. The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 8.8.2. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.
- 8.8.3. Minutes will contain all motions and amendments in the exact form and order the Mayor put them and shall record all questions and answers in accordance with Rule 9.

## **9. PETITIONS AT COMMITTEES**

- 9.1. Appendix A of the Council Procedure Rules on the Council's Petitions Scheme sets out the nature of those petitions received by the Council that are to be considered by a particular Committee.
- 9.2. No more than three (3) petitions may be presented per meeting.
- 9.3. Where a petition is presented: -
  - 9.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.
  - 9.3.2. A debate will take place on the petition.
  - 9.3.3. The petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.
  - 9.3.4. Where the petition relates to another item on the agenda, the matter should then be dealt with alongside that other agenda item.
  - 9.3.5. Where the petition is not dealt with by another item on the agenda, the Committee may resolve: -
    - (a) To request an Officer's Report be provided to a future meeting of the Committee;

- (b) Where the petition pertains to an Executive Function, to request that an Officer's report be prepared and submitted with the item directly to the Executive for consideration;
- (c) To conclude the debate with no further action agreed for the time being.

9.4. Petitions which are not to be presented in person at a meeting of the pertinent Committee will be reported to it. Debate and determination shall take place as per Rule 9.3 above, save that there will be no speeches by a presenter.

## **10. QUESTIONS ON NOTICE**

10.1. At Ordinary meetings of any Committee, save for a meeting called at the start of the Municipal Year to elect a Committee Chairman and/or vice-Chair, there shall be: -

10.1.1. A 30 minute session for Local Residents; followed by

10.1.2. A 15 minute session for Members

to pose Questions on Notice concerning the business of the Council.

10.2. The questions may be asked of the Member chairing the meeting and any Lead Member who sits on the Committee.

10.3. Appendix B of the Council Procedure Rules on Questions on Notice shall apply to meetings of the Committees. It sets out the process for giving notice of such questions prior to the Committee meeting and record keeping subsequent to the meeting.

### **10.4. Order of Questions**

Questions will be asked of the relevant Members in the order that notice of them was received, except that the Member chairing the meeting may group together similar questions.

### **10.5. Posing a Question at the Meeting**

The Member chairing the meeting will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Member chairing the meeting to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.

### **10.6. Supplementary Questions**

A questioner who has put a question in person may also put one

supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Member chairing the meeting may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

#### 10.7. **Nature of Reply**

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

### **11. COMMITTEE DEBATE**

11.1. This Rule 11 applies to Committees generally save that Rule 14 takes precedence in respect of the proceedings of the Planning Committee.

#### 11.2. **Order**

For any item on the agenda of a Committee meeting, the order of speaking shall be: -

11.2.1. Public speaking by Local Residents;

11.2.2. Any introduction to the item, typically by an Officer but by the relevant Member in the case of a Member Agenda Item Request;

11.2.3. Statements by Visiting Members;

11.2.4. Questions, statements and/or motions by Members on the Committee.

#### 11.3. **Public Speaking by Local Residents**

Local Residents may speak to an agenda item at a Committee meeting subject to: -

11.3.1. Notice of wishing to speak on a particular item must be given to the Proper Officer by no later than 4pm the working day before the meeting.

11.3.2. Public speaking under this Rule shall take the form of making a statement only. Any questions from Local Residents should be made using the procedure in Rule 10.

11.3.3. The total time for Local Residents speaking on an item on the agenda is twelve (12) minutes; within that twelve (12) minute period, each speaker has a maximum of three (3) minutes.

**11.4. Statements & Questions by Members on the Committee**

Contributions by Members on the Committee may include statements, questions to the Officers present for the item, motions, amendments, procedural motions, and points of order.

Where questions are posed to the Officers present, the Member chairing the meeting shall invite those Officers to provide answers. Where matters are raised in statements that are not covered by the Officer's report, the Member chairing the meeting shall invite the Officers to comment.

**11.5. Motions**

Any motion must be proposed and seconded, including where recommendations are made within any Officer's report. Once a motion has been proposed and seconded, no other motion may be moved until that earlier motion has been dealt with.

**11.6. Amendments**

Any motion maybe subject to reasonable amendment with the agreement of the Committee and/or the Members proposing & seconding the motion.

**11.7. Procedural Motions**

A Member on the Committee may move any reasonable procedural motion, with a seconder. A procedural motion shall be dealt with immediately once it is moved and seconded.

**11.8. Points of Order**

A Member may raise a point of order at any time. The Member chairing the meeting will hear them immediately. A point of order may only relate to an alleged breach of the Constitution or the law. The Member must indicate the Provision, Rule or law and the way in which he or she consider it has been broken. The ruling of the Member chairing the meeting on the matter will be final.

**11.9. Right of Reply**

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

**12. VOTING AT COMMITTEES**

- 12.1. Unless this Constitution or the law 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.
- 12.2. If there are equal numbers of votes for and against, the Member chairing the meeting at the time will have a second or casting vote, regardless of whether he or she has used his or her first vote. There will be no restriction on how this casting vote is used.
- 12.3. Unless a recorded vote is demanded under Rule 12.4, the Member chairing the meeting will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 12.4. If three (3) Members present at the meeting so request, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- 12.5. Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 12.6. When voting on any 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.

**13. REPORTS BY THE OVERVIEW & SCRUTINY COMMITTEE**

- 13.1. In exercising its policy development remit, the Overview and Scrutiny Committee will prepare a formal report containing its recommendations. This will be submitted to the Proper Officer for consideration by: -
  - 13.1.1. the executive if the proposals are consistent with the existing budgetary and policy framework, and/or
  - 13.1.2. the Council as appropriate e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework.
- 13.2. The report of the Overview and Scrutiny Committee shall be considered by the Council or by the Executive at its next appropriate meeting following submission to the Chief Executive, or such longer time scale as the chairman of the Overview and Scrutiny Committee may agree.

**14. PROVISIONS RELATING TO THE PLANNING COMMITTEE****14.1. Call-in to Planning Committee**

14.1.1. The following may call-in the determination of a Planning Application: -

- (a) A Ward Member of a Ward that the proposed development would have an impact upon;
- (b) The Parish Council of a Parish that the proposed development would have an impact upon;
- (c) For unparished areas, any three (3) Members of the Council.

14.1.2. The request for the application to be heard by the Planning Committee must be made in writing to the Proper Officer or the Case Officer to whom the application is assigned prior to the expiry of the Call-in Window.

14.1.3. For Rule 14.1.1 (a), the Call-in Window shall be the period of twenty-one (21) days from the date of the weekly list advising them of the application.

14.1.4. For Rule 14.1.1 (b), the Call-in Window shall be for a minimum period of twenty-one (21) days of the date of the letter of consultation advising them of the application.

14.1.5. For Rule 14.1.1 (c), the Call-in Window shall be for a minimum period of twenty-one (21) days of the date of the weekly list advising them of the application.

14.1.6. For Rules 14.1.1 (b) and (c), the Call-in Window shall extend to the period of six (6) weeks unless such a delay in exercising the call-in is likely, in all the circumstances known at the time of receipt, to cause a failure to determine the application in time, where that failure would not have occurred had the call-in been exercised within twenty-one (21) days.

**14.2. Referral of Enforcement Matters to the Planning Committee**

14.2.1. A Member may use a Member Agenda Item Request to refer to the Planning Committee an act or omission of the Council in respect of enforcement following an alleged breach of planning control.

14.2.2. Such a request may be rejected by the Proper Officer, in consultation with the Committee Chairman and vice-Chair where: -

- (a) Enforcement issues in respect of the matter complained of has already been addressed at the Committee, the Committee took no action and requested no further update, and there have been no clear material developments that might reasonably lead to a different conclusion by the Committee;
- (b) The matter complained of is the subject of an extant planning application, an appeal before the Planning Inspector, or proceedings have been issued in the Courts, unless the Chairman and vice-Chair judge that the matter nevertheless warrants discussion.

14.2.3. The procedure further differs from other Member Agenda Item Requests: -

- (a) Where reasonable notice is given of the Member Agenda Item Request, Planning Officers should endeavour to provide a short report.
- (b) The Member raising the matter, unless themselves a Member on the Planning Committee, is limited to addressing the meeting with a single three (3) minute statement.

**14.3. Public speaking at Planning Committee meetings**

14.3.1. If a planning application is to be determined by the Planning Committee and a speaker wishes to address the Committee in respect of that application he or she must give notice of that request to the proper Officer by 4 p.m. on the working day before the relevant meeting.

14.3.2. The following speakers will be allowed to address the Committee for each planning application or enforcement matter (except exempt reports) in the following order: -

(a) **Parished Areas**

An Objector	A petitioner, or a representative of a Residents' Association or Amenity Group, or an individual objector.
A representative of the appropriate Parish Councils	Where a representative of the Parish Council does not register to speak, a concerned resident may speak with the Chairman's discretion.

*The applicant or his/her representative	The applicant or his or her representative (incl. a supporter), or a petitioner, or a representative of a Residents' Association or Amenity Group.
--	--

(b) **Non-Parished Areas**

A representative of a Residents' Association/Amenity Group	Where a representative of a Residents' Association or Amenity Group does not register to speak, a concerned resident may speak with the Chairman's discretion.
An Objector	A petitioner, or a representative of a second Residents' Association or Amenity Group, or an individual objector.
*The applicant or his or her representative	The applicant or his or her representative (including a supporter), or a petitioner, or a representative of a second or third Residents' Association or Amenity Group.

\* The applicant or his or her representative would have priority.

- 14.3.3. In order to avoid repetition, a petitioner may present a petition but the appropriate speaker slot will be forfeited. A petitioner may speak for three minutes.
- 14.3.4. Each category of speaker will be limited to three (3) minutes to address the Committee. He or she will not be allowed to ask a supplementary question, make a supplementary statement and will not be cross examined. Also, no written material or photographs may be handed out at the meeting.
- 14.3.5. When more than one person wants to speak for or against a planning application or more than one amenity group or organisation or residents' association wishes to speak for or against a planning application, the first person or group to register their wish to speak will be afforded that right. However, the Proper Officer shall keep a reserve list of speakers for each application. If, at the meeting the original speaker is not in

attendance, a speaker from the reserve list, depending on if the original speaker was a supporter or objector, i.e. an objector replaces an objector, taken in the order which they registered their right to speak shall be invited to address the Committee.

14.3.6. In addition to the public speakers above, Visiting Members may address the Planning Committee for three (3) minutes on individual matters but should give the same notice of their intention to speak to the Head of Policy, Communications and Governance as members of the public. If they do not do so, the application will not be brought forward on the agenda.

14.3.7. Visiting Members should sit away from the body of the Committee.

14.3.8. An objector or applicant may be represented by an agent at the Committee.

#### 14.4. **Visiting Members –Planning Committee**

In respect of the Planning Committee, if a visiting Member gives the requisite notification to the Proper Officer by 4.00 p.m. on the day preceding the meeting, the Chairman shall seek to give the relevant application some priority in the meeting, otherwise the application will be dealt with in the normal course of the meeting.

#### 14.5. **Deferral of planning decisions**

It is likely that from time to time the Planning Committee will defer a decision to a future meeting of the Committee, in order to enable the Officers to report back on any areas of concern raised by the Committee. Minor applications should only be deferred if there is a need for additional information or if there are disputed facts within the report, otherwise they should be determined as reported with the proviso that there may be occasions when the Planning Officers may seek deferral/withdrawal of an application or to implement the agreed procedures for dealing with cases where they believe that the proposed reasons for refusal are unsustainable. On the second occasion that the matter is discussed at Committee, a decision must be made.

#### 14.6. **Planning Decisions which have significant cost implications**

14.6.1. If during consideration of an application, after a motion has been proposed and seconded, the Head of Planning and Development or their representative, in consultation with the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions would not be sustainable at appeal and would more likely than not cause

significant costs to be incurred by the Council because of unreasonable behaviour, then they will inform the Committee that if the motion is agreed it will stand deferred to the next meeting of the Committee. Following the vote, if the motion is agreed the decision will be deferred to the next meeting of the committee. The Committee itself may also agree to defer consideration of an application for the same reasons.

- 14.6.2. For the purposes of this rule significant cost is defined as the Chief Finance Officer's virement limit set out in the Financial Procedure Rules within this Constitution and relates to any punitive award of costs granted against the Council by the Planning Inspectorate or Secretary of State for unreasonable behaviour.
- 14.6.3. For the purposes of this Rule 14.6, unreasonable behaviour is defined as set out in the National Planning Guidance and/or any Guidance issued by the Planning Inspectorate or Secretary of State.

### **C3. Executive Procedure Rules**

#### **1. INTRODUCTION & PURPOSE**

- 1.1. The Rules in this Chapter regulate the business of the Executive and its decision-making. They may be cited as the Executive Procedure Rules.
- 1.2. The purpose of these Rules is to ensure that the Executive: -
  - 1.2.1. Functions smoothly and efficiently;
  - 1.2.2. Is transparent in its proceedings and its decision-making;
  - 1.2.3. Remains accessible to Members who are not on the Executive and to Local Residents;
  - 1.2.4. Makes most its decisions only after consideration by another Member body.

#### **2. OPERATION OF THE EXECUTIVE**

##### **2.1. Background to Executive Decisions**

The arrangements for the discharge of Executive Functions may be set out in the Executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive Functions to be discharged by:

- 2.1.1. The Executive as a whole;
- 2.1.2. A committee of the Executive;
- 2.1.3. An individual Member on the Executive;
- 2.1.4. An Officer;
- 2.1.5. Joint Arrangements; or
- 2.1.6. Another local authority.

##### **2.2. Delegation of Functions**

- 2.2.1. At the Annual Meeting of the Council, the Leader will present to the Council for adoption a written statement of delegations in respect of Executive Functions. This shall be included in the Council's scheme of delegation in Part B of this Constitution. The document presented by the Leader shall specify the following in respect of Executive Functions in relation to the coming year:

- (a) the extent of any authority to be delegated to Executive Members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such Executive committees as the Leader recommends be appointed and the names of Members on the Executive to be appointed to them;
- (c) the nature and extent of any intended delegation of Executive Functions to any other authority or any Joint Arrangements and the names of those Executive Members to be appointed to any joint committee for the coming year; and
- (d) any changes in the delegation of Executive Functions to Officers and to any limitations on that delegation.

2.2.2. The Leader may amend the delegations at any time but must notify the Proper Officer who will report any changes to the Council and the Constitution will be amended accordingly.

### 2.3. **Sub-delegation of Executive Functions**

- 2.3.1. Where the Executive, a Committee of the Executive or an individual Member on the Executive is responsible for Executive Functions, they may delegate further to Joint Arrangements or an Officer
- 2.3.2. Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the functions.

### 2.4. **Conflicts of Interest**

Unless a dispensation to vote has been given:

- 2.4.1. Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D1 of this Constitution.
- 2.4.2. If every Member on the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D1 of this Constitution.
- 2.4.3. If the exercise of an Executive Function has been delegated to a Committee of the Executive, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the

Council's Code of Conduct for Members in Chapter D1 of this Constitution.

## 2.5. **Manner of Decision Making**

- 2.5.1. Key Decisions and Other Material Decisions shall only be made by the Executive or by an individual Member of the Executive:
- (a) At a public meeting of the Executive or other public meeting arranged for the purposes of an individual Member on the Executive making one or more such decisions.
  - (b) Save for urgent matters, where the matter has been considered and/or referred to the Executive by another Member body.
- 2.5.2. Where Executive decisions are delegated to a committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole
- 2.5.3. Key Decisions and Other Material Decisions may only be made where the Access to Information Procedure Rules have been complied with.
- 2.5.4. The powers of an individual Member on the Executive shall be exercised by them personally save where they are unable to act owing to absence or illness, when they may be exercised on their behalf by another Member on the Executive who has been nominated for the purpose by the Leader and the Proper Officer has been given written notice of such nomination.
- 2.5.5. A Key Decision or Other Material Decision does not take effect until it has been signed by the Leader or a Member on the Executive and has been counter-signed by the Proper Officer

## 3. **CONDUCT OF MEETINGS OF THE EXECUTIVE**

### 3.1. **Time and Place of Meetings of the Executive**

The Executive will be scheduled to meet at least eight (8) times per year in the Calendar of Meetings to be agreed by resolution of the Council. The Executive shall meet at the Town Hall or any other location within the Borough to be determined by the Leader.

### 3.2. **Public Access to meetings of the Executive**

All meetings of the Executive will be open to the public, unless the item under discussion is likely to lead to the disclosure of Confidential or Exempt Information per the Access to Information Procedure Rules.

### 3.3. **Chairing of Meetings**

If the Leader is present they will chair the meeting. In his or her absence, then a person appointed to do so by those Members on the Executive present shall chair the meeting.

### 3.4. **Quorum**

The quorum of a meeting of the Executive, or a committee of it, shall be three Members of the Executive.

### 3.5. **Attendance**

3.5.1. Any Member of the Council may attend any Executive meeting. Members of the Council who are not members of the Executive may attend meetings of the Executive and any committee of the Executive including any part of any meeting closed to the public in accordance with the Access to Information Rules. Members may speak as Visiting Members to an item where they have given written notice of their intention to do so to the Proper Officer by 4pm on the day one (1) Clear Day before the meeting.

3.5.2. Members of the public may attend any Executive meeting, except when Confidential or Exempt Information is being discussed and, save for the Rules below in respect of Questions by Local Residents and Petitions, may address the meeting for up to three (3) minutes where they have given written notice of their intention to do so to the Proper Officer by 4pm on the day one (1) Clear Day before the meeting.

3.5.3. The Proper Officer, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Executive or a committee of the Executive.

### 3.6. **Business of Meetings**

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

3.6.1. Consideration of the minutes of the last meeting;

3.6.2. Declarations of interest, if any;

3.6.3. Petitions;

3.6.4. Questions on Notice from Local Residents;

3.6.5. Questions on Notice from Members;

- 3.6.6. Matters referred to the Executive (whether by the Overview & Scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview & Scrutiny Procedure Rules;
- 3.6.7. Issues arising from Overview & Scrutiny;
- 3.6.8. Matters referred by any other Committee;
- 3.6.9. Any matter relating to a serious service failure or Nuisance referred by at least three (3) Members of the Council, where written notice has other been given in accordance with Committee Procedure Rule 6.1 ("Member Agenda Item Requests");
- 3.6.10. Receipt of written representations from Members of the Council; and
- 3.6.11. Matters for decision set out in the agenda for the meeting, and which shall indicate which Key Decisions are and which are not in accordance with the Access to Information Procedure rules set out in Part C of this Constitution.

### 3.7. Consultation

All reports to the Executive from any Members of the Executive or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation carried out with stakeholders, the Overview & Scrutiny Committee and the relevant Policy Advisory Committee(s), and the outcome of that consultation.

### 3.8. Meeting Agenda

- 3.8.1. Any Member on the Executive may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Executive for consideration whether or not authority has been delegated to the Executive, a committee of the Executive, any individual Member on the Executive, or Officer in respect of that matter.
- 3.8.2. The Proper Officer will ensure that an item is placed on the agenda of the next appropriate meeting of the Executive where the Overview & Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.
- 3.8.3. If the volume of business for any one meeting appears excessive, the Leader, in consultation with the Proper Officer, may defer consideration to the next appropriate meeting except that items placed on the agenda by the Council may not be

deferred if the Council requires them to be considered at that meeting.

### 3.9. **Voting at Executive Meetings**

The Executive will decide all matters before it by simple majority. The Leader or, in his or her absence, other Member chairing the meeting, will have a second or casting vote in the event of a tie. There will be no restriction on how this casting vote is used. If any Member on the Executive present at the meeting demands 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.

### 3.10. **Disturbance**

3.10.1. If a member of the public interrupts proceedings, the Leader (or other Member chairing the meeting) will warn the person concerned. If they continue to interrupt, the Leader (or other Member chairing the meeting) will order their removal from the meeting room.

3.10.2. If there is a general disturbance in any part of the meeting room open to the public, the Leader (or other Member chairing the meeting) may call for that part to be cleared.

### 3.11. **Substitution**

There shall be no substitution at any meeting of the Executive. Any Member on the Executive may, with the prior approval of the Leader which shall be notified to the Proper Officer, act as a substitute for another Member on the Executive at a meeting of a sub-committee of the Executive.

## 4. **PETITIONS AT EXECUTIVE MEETINGS**

4.1. Appendix A of the Council Procedure Rules on the Council's Petitions Scheme sets out the nature of those petitions received by the Council that are to be considered by the Executive.

4.2. No more than three (3) petitions may be presented per meeting.

4.3. Where a petition is presented: -

4.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.

4.3.2. A debate will take place on the petition.

4.3.3. The petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.

4.3.4. Where the petition relates to another item on the agenda, the matter should then be dealt with alongside that other agenda item.

4.3.5. Where the petition is not dealt with by another item on the agenda, the Executive may resolve: -

(a) To request an Officer's Report be provided to a future meeting, at which point it will be treated as any other agenda item with an Officer's Report;

(b) To conclude the debate with no further action agreed for the time being.

4.4. Petitions which are not to be presented in person at a meeting of the pertinent Committee will be reported to it. Debate and determination shall take place as per Rule 4.3 above, save that there will be no speeches by a presenter.

4.5. Where a Policy Advisory Committee has debated a Petition concerning an Executive Function and has resolved to send the matter to the Executive, that item shall be dealt with like any other agenda item.

## **5. QUESTIONS ON NOTICE AT MEETINGS OF THE EXECUTIVE**

5.1. Appendix B of the Council Procedure Rules ("Questions on Notice") shall apply to meetings of the Executive. It sets out the process for giving notice of such questions prior to the Executive meeting and record-keeping subsequent to the meeting.

5.2. At any meeting of the Executive, the session for Questions on Notice from Local Residents shall be limited to 30 minutes and the session for such questions from Member shall be limited to 15 minutes.

5.3. The questions may be asked of the Leader or of any individual Lead Member and must concern the business of the Council in so far as it relates to Executive Functions.

### **5.4. Order of Questions**

Questions will be asked of the relevant Members in the order that notice of them was received, except that the Leader may group together similar questions.

### **5.5. Posing a Question at the Meeting**

The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Leader to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.

#### 5.6. **Supplementary Questions**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Leader may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

#### 5.7. **Nature of Reply**

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

### 6. **CALL-IN**

- 6.1. When a decision (other than a De Minimis decision) is taken by the Executive, an individual Member on the Executive, a committee of the Executive, or made by an Officer with delegated authority from the Executive, or an Area Committee or under Joint Arrangements, that decision shall be notified to all members of the Council as soon as possible after it is taken (normally within two working days) and shall be made available at the main offices of the Council.
- 6.2. That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented on the expiry of five (5) working days after publication of the decision unless it is called in.
- 6.3. During that period the Proper Officer shall call in a decision for scrutiny by the committee if so requested by:
  - 6.3.1. the Chairman of the Overview & Scrutiny Committee; or
  - 6.3.2. any three (3) Members of the Council.

Such a request must be made in writing and must state the reason the call-in is believed to be necessary. On receipt of such a request within five (5) working days of publication of the decision, the Proper Officer

shall notify the decision-taker of the call-in and shall within five (5) working days of the decision to call-in, call a meeting of the Overview & Scrutiny Committee. Pending that meeting, the decision shall stand deferred and shall not be implemented.

- 6.4. If, having considered the decision, the Overview & Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision.
- 6.5. If following a call-in of the decision, the Overview & Scrutiny Committee does not refer the matter either to Council or back to the decision-making person or body, the decision shall take effect on the date of the Overview & Scrutiny meeting.
- 6.6. If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the Rule 6.7 below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 6.7. If the Council does not decide to refer the decision back to the decision-making body or person, the decision shall take effect on the date of the Council meeting.
- 6.8. A decision-making person or body can be required to reconsider any particular decision only once.

## **7. Call-in and Urgency**

- 7.1. The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The decision proposed shall be regarded as reasonable in all the circumstances and be treated as a matter of urgency unless the Chairman of Overview & Scrutiny and the political

group leaders by simple majority, disagree. Decisions taken as a matter of urgency must be reported to the next appropriate meeting of the Council by the Proper Officer, together with the reasons for urgency.

- 7.2. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **8. CONSIDERATION OF REPORTS BY THE EXECUTIVE**

- 8.1. If the Proper Officer refers an Overview & Scrutiny Committee report to Council, he or she shall also serve a copy on the Leader with notice that the matter is to be referred to Council. When the Council meets to consider any referral from the Overview & Scrutiny Committee on a matter which would have an impact on the budget and policy framework, it shall also consider the response of the Executive on the Overview & Scrutiny Committee proposals.
- 8.2. Overview & Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview & Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

## **Significant Changes List**

The information shown is in the below format:

- Draft constitutional rule as proposed
- A) Officer Comments (if any)
- B) External Legal Comments (if any)

Please note that this is a working document and will be updated as meetings of the working group and Democracy and General Purposes Committee continue.

Specific Issues that are due to be resolved in the near future are:

- Members' Access to Information

### **PART A – CORE PROVISIONS**

#### A2, 3.4 (Rights of Members to Access Information & Meetings)

For information purposes only; to be considered by Democracy and General Purposes in March 2022.

*"3.4.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession, including those containing Exempt or Confidential Information, and to attend all meetings of a member body even where the public have been excluded, where he or she has a need to know.*

*3.4.2. Any officer or body with delegated authority to make a decision under this Constitution determining whether a Member has a need to know shall consider the prima facie existence of that need to know where: -*

- (a) The Member sits on the relevant Member body considering the matter or is likely to sit on that body as a substitute.*
- (b) The Member is considering exercising or is exercising any Rights in Respect to Proceedings summarised in Provision 3.5 below in connection with such a matter; or*
- (c) The information relates directly to matter the Member's role in representing their Ward.*

*This is subject to there being exceptional circumstances where it would be manifestly unreasonable for the council to acknowledge a need-to-know certain information and/or where disclosure of that information to the Member would be contrary to some other enactment.*

*3.4.3. The Access to Information Procedure Rules in Part C seek inter alia to apply this principle, subject to the proviso that where there is any conflict in the application of those Rules and the principles in this Provision 3, the principles in this Provision 3 shall prevail".*

AND A2, 6.7 (Miscellaneous)

6.7.1: 'Any sub-Committee of any of the aforementioned Committees shall:  
e) Be subject to the prima facie need to know of Members of its parent Committee, save for the Licensing Committee in respect of any sub-Committee determining an application'

Officer  
Comment

In relation to 3.4.1;

Elected Members are not entitled to all Information by virtue of their position. Evidenced by case law, Counsel's advice to D&GP (2019) and the need to know arising from Schedule 12A LGA 1972.

In relation to 3.4.2 a);

Likely to sit as a Substitute does not constitute a need to know, as by actively sitting as a Substitute that Member would be given any Part II papers.

In relation to 3.4.2 c) and 6.7.1 e);

This depends on the assessment of a 'need to know' by the Proper Officer/MO.

In relation to 3.4.3;

There should not be conflict within the constitution. The need to know arises from statutory principles.

External  
Legal  
Comment

In my view it still does not accurately reflect the law and the committee will need to be given full and detailed legal advice on this point (as will full Council when it ultimately considers the constitution).

A2, 4.3.2 (Types of Decision; Significance)

- (a) *Key decisions will be those which:*
- (i) *result in the Council incurring expenditure, or making savings, of more than £250,000; or*
  - (ii) *are significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.*
- (b) Procedural and De Minimis Decisions are those decisions pertaining to procedural matters and those decisions of little or no policy significance where expenditure or loss is less than £5,000.
- (c) Other Material Decisions are those decisions not otherwise falling into (a) or (b).

Officer Comment	The figure shown at (b) will be discussed with the Section 151 Officer.
External Legal Comment	There needs to be clarity about what "other material" decisions are and what this means for the decision making process
<p><u>A2, 6.5.4 (Disputes Panel, D&amp;GP ToR)</u>  "The Functions of the Democracy &amp; General Purposes Committee shall include:  -  (c) <i>Via its Disputes Panel, determining individual Member complaints and grievances as to the application of this Constitution and the rights of Members under it, albeit without prejudice to the role of those Members presiding at meetings</i>".</p>	
Officer Comment	<p>Undermines the role of the Proper Officer/MO in determining the application of the constitution and AtI and the role of Democratic Services in providing procedural advice. This could lead to worsening relationships between Officers and Members, particularly with the Chairman and could lead to a lack of trust.</p> <p>There is a further risk of inappropriate or illegal decisions being made. Exempt and/or confidential information would have to be disclosed to the Panel Members, even if they are not a member of the relevant decision-making Committee originally considering the issue.</p> <p>At the Dec. 2021 meeting of the Working Group, the Disputes Panel was agreed however it was noted that further consideration on the operation of the panel was required, e.g. whether it would prevent a decision's implementation.</p> <p>Members on the panel would need appropriate advice and expertise in terms of data protection on AtI.</p>
External Legal Comment	None.
<p><b><u>PART C – RULES OF PROCEDURE</u></b></p>	
<p><u>C1, 12.14 (Motions on Notice)</u>  Outlines requirements on Motions on Notice.</p>	

*"This Rule 12 is subject to the over-riding requirement that any motion before the Full Council concerning a Member's rights to access information or documents must be determined by the Full Council".*

Officer Comment	Needs further consideration as this would involve disclosing confidential/exempt information.
External Legal Comment	This clause creates significant practical problems and is inconsistent with other parts of the constitution. If a member is not entitled to a document as a matter of law but the issue can be referred to full council then in order to determine whether the information should be provided the Council will need to see the information which means the member will see it even if they are not entitled to it! This should not be included.

C2, 8.4 (Exclusion of the Public & Press)

*"In accordance with the Access to Information Procedure Rules, a Committee meeting: -*

*8.4.1. Shall go into closed session where Confidential Information is to be discussed*

*8.4.2. May go into closed session where Exempt Information is to be discussed in relation to an item.*

*This means that the press and members of the public shall be excluded from the meeting. No such exclusion however shall apply to any elected Member, including any Visiting Member".*

Officer Comment	None. For information, this applies at Cabinet Meetings also.
External Legal Comments	See comments on Member Access to Information.

C2, 11.8 (Points of Order)

In explaining the point of order;

*"The Member must indicate the Provision, Rule or Law and the way in which he or she consider it has been broken. The ruling of the Member Chairing the meeting on the matter will be final".*

Officer Comment	The Member would have the right to have their dispute considered by the Member Dispute Panel. The Panel could not over-rule the original decision made and it would be retrospective.
External Legal Comment	None.
<p><u>C2, 14.2 (Referral of Enforcement Matters to the Planning Committee)</u></p> <p>Outlines the process for Member Agenda Item Requests in relation to enforcement.</p>	
Officer Comment	<p>Planning Committee received updates and the Head of Planning and Development often discharges their delegation for this purpose; Given the Planning Committee’s workload and that it is regulatory in nature, it may be impractical to add to the agenda for the Committee and Officers; as the latter is then required to provide a report when reasonable notice is given. What is reasonable notice?</p> <p>The SPI Committee’s KPIS include the no. of enforcement cases;</p> <p>Specific enforcement matters would be confidential in nature and require Part II Papers.</p>
External Legal Comment	None.
<p><u>C3, 3.8 (Meeting Agenda)</u></p> <p><i>"3.9.1 - Any Member on the Executive may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Executive for consideration whether or not authority has been delegated to the Executive, a committee of the Executive, any individual Member on the Executive, or Officer in respect of that matter.</i></p> <p><i>3.9.3 - If the volume of business for any meeting appears excessive, the Leader, in consultation with the Proper Officer, may defer consideration to the next appropriate meeting except that items placed on the agenda by the Council may not be deferred if the Council requires them to be considered at that meeting".</i></p>	

Officer Comment	Should the Leader be responsible for the agenda items as Chairman?
External Legal Comment	In relation to 3.9.1;  Matter should be limited to Executive functions.
<p><u>C4, 13.2 (Determination)</u></p> <p><i>'13.2.1 The power to determine a Member's rights to information and documents held by the council rests with the Members as a whole, being the council. any Member body or individual Member or Officer with delegated authority to determine such matters...'</i></p> <p><i>13.2.2 In the evening of any dispute or disagreement about whether a Member is entitled to any document of information; -</i></p> <p><i>a) Where a Member is present, or is seeking to be present, at any meeting of an Member Body, the Member chairing the meeting or the Member body itself may determine to acknowledge a Member's need to know in accessing any part of that meeting held in closed session or any papers for that meeting containing Exempt of confidential Information. The Proper Officer, the Monitoring Officer or other Legal Officer present may also determine to acknowledge such a need to know'.</i></p>	
Officer Comments	<p><u>In relation to 13.2.1;</u></p> <p>Is it appropriate for an individual Member to be able to determine another Member's Need to Know? Would they not need to have a good knowledge of the criteria/legislation?</p> <p><u>In relation to 13.2.2;</u></p> <p>As above but specifically relating to the Chairman. It is not clear here whether it is the Member or Proper Officer that has the final decision. Further, any other Legal Officer present may not have the required knowledge in relation to Access to Information to determine the decision and what if there is only a Democratic Services Officer present?</p> <p>Could lead to exempt and/or confidential information being disclosed unlawfully. This section has been added into the Constitution.</p>
External Legal Comments	None.

## **Governance Arrangements Working Group**

Thursday 11 November 2021 – Held via MS Teams

2.00 p.m. to 2.35 p.m.

### NOTES

<b>Present:</b> <u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose  Councillor Cox (present as substitute for Councillor Hastie) Councillor Munford	
<u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore and Munford.
2. Group and Process moving forward.	<p>The Head of Policy, Communications and Governance would be presenting an update report to the Democracy &amp; General Purposes (D&amp;GP) Committee on 27 November, outlining the timetable of the Constitution's review.</p> <p>A recommendation to include Councillor Hastie, with Councillor Cox as a substitute, to the group's membership would be included. This would ensure that all political groups of the Council were represented in the group's membership.</p> <p>The group were informed that Mid-Kent Legal had instructed Simon Goacher as the external legal representative.</p>
3. For Discussion:	<p>As Part A – Core Provisions and Part C – Rules of Procedure had been provided shortly before the meeting, it was decided that an additional meeting of the group would be scheduled to allow the attendees to read the documentation.</p> <p>The Chairman gave the following direction as to which specific sections should be looked at:</p> <ul style="list-style-type: none"><li>• Part A – Core Provisions (Articles) particularly; provision 4 in light of the meeting's agenda topics, provision 6 relating to PACs and O&amp;S Committee, provision 7 relating to the Executive, including the 'Administration's Programme' at 7.5</li><li>• Part C – Rules of Procedure. The rules included were based on the Rules of Procedure in the Council's current constitution, shown at Part 3.1.</li></ul> <p>It was noted that Parts D and E had been completed and would be distributed to attendees. The allowance scheme would be discussed at a later date.</p>

4. Summary of Agreed Actions	<p><b>Actions:</b> That</p> <ol style="list-style-type: none"> <li>1. The Democratic Services Officer schedule an additional meeting of the working group, to occur in the week commencing 22 November 2021.</li> <li>2. The group's attendees read the relevant sections as advised by the Chairman.</li> <li>3. Parts D and E of the revised Constitution be sent round to the group's attendees.</li> </ol>
5. Duration of Meeting	2.00 p.m. to 2.35 p.m.

## **Governance Arrangements Working Group**

Thursday 25 November 2021 – Held via MS Teams

2.00 p.m. to 4.15 p.m.

### NOTES

<p><b>Present:</b></p> <p><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose Councillor Hastie</p> <p><u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore and Munford.
2. Feedback from Parts A and C for discussion; Any other points for discussion (Item 2 of previous agenda)	<p><u>Part A – Core Provisions Feedback</u></p> <p><u>Leader and Cabinet</u> (Provision 7)</p> <p>The Group expressed general support for the provision concerning the Leader and Cabinet.</p> <p>In response to questions on the Administration’s Programme (provision 7.5) it was confirmed that the intention was to maintain a direct link between election pledges and the actions of the Executive. These actions would be prioritised.</p> <p>Provision 7.5.2 intended to provide flexibility to the agreement and implementation of the Administration’s Programme.</p> <p>The External Legal Representative queried provision 7.5.2 as it could lead to the Administration Programme having been approved but then re-presented to another Council meeting if the Budget and Policy Framework required amendment. This could be resolved if the necessary information was provided at the programme’s initial consideration by Council. It was noted that such information may not be readily available at the first Ordinary Meeting of the Municipal Year, however greater flexibility in the wording would be preferable.</p> <p><u>Policy Advisory Committees</u> (PACs) (Provision 6)</p> <p>There was general support for the provision concerning the PACs, although there was some suggestion that the wording should be made clearer in line with the proposed Council procedural rules in Part C, chapter 1.</p>

The Chairman highlighted the procedural rules for the election of Vice-Chairman in Part C of the Constitution (Chapter 2, Rule 3.2) due to the inbuilt preference for a non-administration Member. This would promote a fair representation of non-administration political parties.

It was noted that the Terms of Reference (ToR) for the PACs had not yet been set, which was to allow for flexibility given that the Leader would be responsible for assigning the portfolio's ToR. Whilst these should align to the PACs, these should not be so restrictive that it would cause delay if an item for consideration cut across multiple portfolios in practice. Following discussion, the Leader would appoint the PAC Chairman if there was a cross-over in portfolios.

The definition of a Key Decision was to be confirmed.

#### Overview and Scrutiny Committee (OSC) (Provision 6)

It was highlighted that the separate OSC Procedural Rules (Part C, Chapter 3) had been based on the Tonbridge and Malling Borough Council Constitution.

The Chairman explained that the increased Membership of the OSC from 9, to 13 (with the option to include an additional 2 co-opted Members) was due to the increased number of political groups now represented on the Council. In line with proportional representation, all political groups would be more likely to have at least a seat on the OSC. It was mentioned that an increase in membership size was also suitable as there was only going to be one OSC, as opposed to the four in place under the Council's previous Executive Arrangements.

Whilst not relating directly to Provision 6, the Planning Referrals Procedure was highlighted due to the proposed arrangements from May 2022; If necessary, the OSC would be convened by the Proper Officer to act as the Planning Referrals Committee.

The Monitoring Officer and Head of Policy, Communications and Governance highlighted that this would have a training impact, as planning referral committee members still had to undertake the minimum required planning training.

The External Legal Representative clarified that the proposed planning referral procedure was appropriate, provided that there was a clear and evident separation of the duty being the responsibility of the OSC Committee.

The OSC would also be responsible for acting as the Council's Crime and Disorder Scrutiny Committee, which was a statutory obligation.

Part A Provision 3.3 required amendment, as there should not be conflict within the Constitution.

#### Council Procedure Rules (Part C)

The Council Procedural Rules were generally supported as they were well developed and based on the current Constitution's procedural rules (Part 3.1).

It was noted that there could be further clarification and simplification of the rules shown, to make them easier to read and implement. A suggestion was made to include an explanation as to why some rules had/had not been included (from the current constitution, for the benefit of the attendees).

In response to a query, the Chairman explained his interpretation of the explanation provided at the beginning of the procedural rules section. The Monitoring Officer and External Legal Representative stated that its inclusion in the procedural rules was unusual and that they were unsure of the impact, if any in practice, that it would have.

Specific Attention was drawn to the below considerations:

- The Leaders Report on Current Issues – Rule 11, Part C. The Head of Policy, Communications and Governance and the Monitoring Officer expressed concern at the addition of rules 11.2 and 11.3. The rules could be misused and place undue constraints on the Leader.

Further ambiguities including how much additional time would be provided for the Leader to speak on the requested issues and the risk of Council business not being conducted due to the time taken on the issue, were highlighted.

The Group expressed general support for the provisions, including the perceived increase in accountability, but it was suggested that further measures be included to ensure its suitable use. This included an increase in the minimum number of Members required to submit a requested issue and a time limit.

- Rule 13, Motions on Notice was highlighted. It was felt that the rule should be simplified to avoid confusion, particularly in reference to rule 13.9; referral of petitions that fall within an Executive Function.

In discussing the rules on 'Motions' within Part C, it was highlighted that some of the provisions included within the Council's Current Constitution (Part 3.1, Rule 18) had not been included. This was not intentional, and the External Legal Representative would undertake a cross-referencing exercise between the current and proposed draft Constitutions to identify the missing provisions.

- Appendix A – Petition Scheme. The current procedure for petitions was clearly outlined, but that this would become more complex in the Executive System due to the different bodies that a petition could be presented to; PACs, the Executive and/or Council.

The Monitoring Officer questioned the removal of some of the Mayor's disclaimers in waiving some of the rules,

	<p>including those relating to petitions. The Chairman confirmed that this removal had been intentional, to ensure that the same procedure was followed in each instance.</p> <ul style="list-style-type: none"> <li>• Appendix B – Questions by Members of the Public. Point 4.6 was intended to prevent repeated questions on the same topic.</li> </ul> <p>The procedural rules relating to questions had remained the same, except where Members would be permitted to submit a question over the weekend for a Tuesday meeting. This contrasted to the current 10 a.m. one clear working day requirement.</p> <p><u>Other points of discussion</u> (based on the draft Constitution provided)</p> <p><u>Trust Committees</u></p> <p>The governance arrangements for Trust Committee’s were discussed, as the following points were highlighted:</p> <ul style="list-style-type: none"> <li>- The difference between Councillors acting as a Corporate Trustee vs. a Borough Councillor;</li> <li>- Ensuring appropriate delegations to Officers to allow the exercise of the Trust Committee’s decisions;</li> <li>- Membership of the Committee as a separate Committee or as a Cabinet Sub-Committee, with the possibility of Non-Executive Members acting in an advisory capacity.</li> </ul> <p>The External Legal Representative would conduct research into an appropriate arrangement for the Council’s Trust Committee’s under the Executive System.</p> <p><u>Training</u></p> <p>It was confirmed that training would be provided to both Councillors and Officers on the Executive Arrangements and Constitution once implemented. Reference was made to the proposed ‘Guide to the Constitution’ for that purpose.</p>
3. Local Choice Functions	<p>In response to questions, the External Legal Representative confirmed that there were certain functions (outside of statutory requirements) that could be deemed the responsibility of the Executive and/or Council.</p> <p>A list of Local Choice Functions would be compiled and sent to the group for review.</p>
4. Direction for next meeting	<p>The External Legal Representative would complete the below actions, read through Parts A to C of the draft Constitution with the outcome to be provided to the Chairman for discussion in the week commencing 29 November 2021.</p> <p>Any amendments would be presented to the Democracy &amp; General Purposes Committee, before the working group undertook the next phase of the Constitution’s review.</p>
5. Summary of Agreed Actions	<p><b>Actions:</b> That the External Legal Representative:</p> <ol style="list-style-type: none"> <li>1. Re-Draft Provision 7.5.2 (Part A) to provide for greater flexibility on the approval of an Administration Programme;</li> </ol>

	<ol style="list-style-type: none"> <li>2. Examine the Planning Referrals Procedure and re-Draft as appropriate to ensure a clear and evident separation of the duty being the responsibility of the OSC Committee;</li> <li>3. Conduct research into the appropriate governance arrangements for the Council’s Trust Committees under the Executive Arrangements;</li> <li>4. Compile a list of possible Local Choice Functions;</li> <li>5. Undertake a cross-referencing exercise concerning ‘Motions on Notice’, between the Council’s current constitution and the Draft constitution to identify any gaps.</li> </ol>
6. Duration of Meeting	2.00 p.m. to 4.15 p.m.

## **Governance Arrangements Working Group**

Thursday 9 December 2021 – Held via MS Teams

2.00 p.m. to 3.45 p.m.

### NOTES

<p><b>Present:</b></p> <p><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor Harper</p> <p><u>Officers</u> Jayne Bolas Angela Woodhouse Ryan O’Connell Oliviya Parfitt</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore, Hastie and Munford.
2. Consideration of the Draft Constitution (in sections)	<p>The Chairman invited comments on the draft Constitution. The group felt that the ‘Purpose’ of the Constitution in Part A1 was well explained.</p> <p>There were views expressed by the Democratic and Electoral Services Manager, Head of Policy, Communications and Governance and External Legal Representative in attendance, with the following points made:</p> <ul style="list-style-type: none"><li>• Part A1, Rule 3.3 (concerning conflict of rules)</li></ul> <p>This would likely be restrictive and difficult to implement. The importance of easily and quickly accessible rules was highlighted, to avoid the need to look in multiple places to ascertain the right course of action.</p> <ul style="list-style-type: none"><li>• Part A’s precedence over other Parts.</li></ul> <p>The External Legal Representative clarified that the Articles of a Constitution (Core Provisions in the draft) were, to an extent, superfluous in comparison to the rules. The rules should be self-contained, without the need to refer to the earlier parts of the Constitution, as the advice given should originate from the wording of the rules alone.</p> <p>The Chairman stated that further amendment and consideration was expected, in light of the Constitution’s draft status.</p> <p>The Democratic and Electoral Services Manager stated that from a practical perspective advice given by the Democratic</p>

	<p>Services Team did not generally concern the earlier parts of the Constitution, but rather the procedural rules. Instances where these were examined included to find a specific delegation, at which point an interpretation would be made. There was concern that a Democratic Services Officer could be accused of providing deliberately mis-leading advice, through the increased importance of Part A over the other Parts.</p> <p>The Chairman stated that the draft Constitution would require 'stress-testing' and that Parts C2-C4 contained cross-references to be resolved.</p> <p>The Monitoring Officer explained that incorrect and/or misleading advice had further practical impacts, such as the grounds for Judicial Review of the decision.</p> <ul style="list-style-type: none"> <li>• Part C2, Application of Rule 16.6 from C1 (Amendments to Motions). The application of this rule would have significant implications for Planning Committee, as replacing a motion for refusal with approval (and visa versa) allowed the Committee to function efficiently. The disapplication of Council rules to Committee in the current constitution allowed the Chairman to have discretion in managing the meeting.</li> </ul> <p>The unintended implications of re-writing the whole Constitution rather than the parts relevant to the introduction of Executive Arrangements was discussed.</p>
<p>3. Comments from the Democratic and Electoral Services Manager</p>	<p>The Chairman and the Working Group invited the Democratic and Electoral Services Manager to outline his comments on the draft Constitution.</p> <p>The following points were raised:</p> <ul style="list-style-type: none"> <li>• The draft Constitution seemed to curtail the benefits of an Executive System; the ability to be responsive, decisive and have ownership of decision-making;</li> <li>• The Executive System provides for a 'Strong Leader' by law but there was a sense from the draft document that it was attempting to constrain the role of the Leader.</li> <li>• The blurred role between the Executive and the exercise of scrutiny functions on the Policy Advisory Committees (PACs); these would be Council rather than Executive Committees but be Chaired by a Cabinet Member. There was concern that the speed of the decision-making process would be affected;</li> <li>• The increased membership size of the Overview and Scrutiny Committee (OSC), to a minimum of 13 Councillors, would likely be too large and difficult to manage;</li> </ul>

- The limitation placed on call-ins – Only the OSC Chairman and/or any 3 Members of the Committee could call-in a decision. This reduces the overall effectiveness of call-in whilst concentrating it in the hands of fewer Councillors.
- The sign-off process required for Individual Member decisions was impractical and would prevent individual decision making, by being dependent on co-signatories. This could cause conflict in the event that the Leader refused to co-sign a decision (and therefore prevent its implementation);
- There could be misuse of the Administration Programme, as the contents would be exempt from consideration by the PACs. There would be less scrutiny on these items and broad topic titles could be used when presented to Council, which would also prevent related items being considered by the PACs;
- There had been significant changes to the enforcement delegations within the Planning Committees Terms of Reference (ToR) which would lead to significantly more Part II reports. Further consideration of the effects of the change was needed and the condition on the delegation would be better placed in the ToR rather than the procedure rules;
- The proposed planning referrals system included that a when an application was approved through the Chairman’s casting vote or by 1 or 2 votes, it could be called in. This was impractical as the Committee’s decisions were implemented immediately which could affect fee’s income and open up risks of Judicial Review.

If preferred, there could be no planning referrals process within the new Constitution.

- That the contents and rules within the draft Constitution should allow for flexible rules with boundaries. Having rules that were too restrictive could make them harder to operate in practice or conversely make it easier to find loopholes. For example, the Leader could use the Report on Current Issues as a tool to filibuster a Council meeting. Alternatively, a small group could submit numerous requested issues for consideration on a frequent basis.

The disputes panel could be used as a way of preventing an urgent decision.

In response to concerns about the proposed arrangements, the working group clarified that a Hybrid Model had been proposed as the previous Executive System had not been suitable for many Councillors.

The key principles and the model itself had been agreed by full Council.

	<p>It was recognised that the Constitution provided was in draft form and would require further amendment as the working group continued to review the document.</p> <p>Further comments provided by the Democratic and Electoral Services Managed on the draft Constitution’s usability were as follows:</p> <ul style="list-style-type: none"> <li>• The cross-over between the Constitution’s parts would make it difficult to use in high-pressure instances;</li> <li>• Having one rule applicable to all the relevant meetings makes it much easier for a person to familiarise themselves with the rules;</li> <li>• There were too many types of decision;</li> <li>• There were conflicts between the ToR between Council and the Committees. For example, Council and the Democracy and General Purposes Committee were responsible for Electoral Matters;</li> <li>• There were significant questions on how a disputes panel would be facilitated in practical terms;</li> <li>• The discretions of the Mayor are used to ensure the smooth running of full Council;</li> </ul> <p>The importance of Member-led decision making was reiterated however this would not be achieved through the Constitution itself, but through strong leadership from Councillors.</p> <p>In response, the group highlighted the importance of inclusivity within the new governance arrangements, alongside a model that would be retained and supported in the long-term. The inclusion of PACs was to involve as many Councillors as possible in the decision-making process.</p> <p>The Monitoring Officer advised that being Member-led referred to the Council’s strategies and policies, rather than operational delegations which were cumbersome. The External Legal Representative stated that they agreed with the comments made by the Democratic and Electoral Services Manager on the importance of easily applied and practical rules.</p> <p>In relation to individual decision making, the previously used method whereby Individual Executive Members publicised when they would be making a decision, was highlighted as a useful mechanism for the new arrangements.</p> <p>The group thanked the Democratic and Electoral Services Manager for his comments, and it was requested that the Democratic Services Team provide a list of comments on the draft Constitution. This would enable the group to further consider the suitability and applicability of some of the actions and rules proposed.</p>
<p>4. Direction for next meeting</p>	<p>That the comments on the draft constitution drafted by Democratic Services be distributed to the working group, so that these could be considered ahead of the next meeting.</p>

5. Summary of Agreed Actions	<b>Actions:</b> That the Democratic Services Officer distribute the list of comments on the draft Constitution to the meeting's attendees on Monday 13 December 2021, for discussion at the next meeting.
6. Duration of Meeting	2.00 p.m. to 3.45 p.m.

## **Governance Arrangements Working Group**

Thursday 16 December 2021 – Held via MS Teams

2.00 p.m. to 4.40 p.m.

### NOTES

<p><b>Present:</b></p> <p><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor Harper</p> <p><u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt</p> <p>Councillor Burton (present as substitute for Councillor Blackmore)</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore and Munford. Councillor Hastie was in attendance for part of the meeting.
2. Recap	The Chairman summarised that progress on the draft Constitution had been made and continued. An updated version of the draft had been circulated to the meeting's attendees with the agenda.
3. Consideration of Draft Text (v.3.8)	<p>3.1 Members' rights to Information (A2, Provision 3 &amp; C4) (access to Information (AtI) Section sent separately)</p> <p>The Chairman referenced the AtI Document previously provided, which contained the originally drafted section, Simon's suggested version and an updated draft section in response.</p> <p>The working group expressed support for the rules as drafted by the Chairman, as it was felt that this promoted greater transparency and increased involvement for all Councillors.</p> <p>The External Legal Representative, Mr Goacher stated that the section did not accurately reflect the legal position regarding the 'need to know' requirement. There were instances as demonstrated through case law whereby Councillors/decision makers were not given access to a particular piece of information, which was upheld upon legal challenge. This contradicted the 'prima facie' assumption.</p> <p>There was further concern at the ability for a motion to be moved at a full council meeting, regarding a Councillor's right of access. This would mean that the information requested would have to be disclosed to all Councillors before a decision was made, which was not standard or best practice. The Council itself and the Monitoring Officer would face increased risk of challenge from individuals and/or organisations as a result.</p>

The disputes panel suggested required further consideration, as the panel members would need a significant legal and data protection expertise to reach a decision, however the principle aim of the body had been understood. The Chairman clarified that the intention was for the Proper Officer the Head of Policy, Communications and Governance would advise Councillors on their initial request to access confidential and/or exempt information, with the Monitoring Officer acting as Proper Officer to advise the Disputes Panel if required.

The working group highlighted the previous ease in accessing agenda papers and wished for this to be promoted where possible. It was felt that Councillors had been previously refused access unnecessarily, however the process of submitting a request to the Monitoring Officer was noted as standard practice.

In response to questions, Mr Goacher clarified that there had not been any legal challenges made against Council's that had disclosed confidential and/or exempt information to Councillors. However, it was likely that local authorities had been managing access to information correctly in the first instance. It was noted that the number of individual data protection claims were generally increasing, but that the Information Commissioner's Office were more likely to issue sanctions where there had been significant and/or consistent failings.

It was agreed that the wording should be in favour of disclosure where possible and that the disputes panel would remain a feature of the new arrangements. In response, the Chairman would amend the AtI section and provide a copy to the external legal representative for comments.

### 3.2 Individual Members' ability to raise issues formally

#### a) Agenda Item Requests (Chapter C2, Rule 6)

The working group was supportive of the rules proposed concerning Councillor agenda item requests.

It was felt that a maximum number of agenda item requests was unnecessary given that there was not currently a limit in place. Further, any request would be managed with the Chairman and relevant officers as part of the agenda setting process.

In response to comments from the Democratic Services Officer, it was agreed that the Chairman would have the discretion to accept agenda item requests that had been submitted after the deadline, with the draft document to be amended in response.

#### c) Questions on Notice (Chapters 1&2, Rules 9&10, Appendix B)

Consideration was given to whether additional wording was required to qualify whether a Councillor's answer reflected their personal views or the Council's position. However, it was felt that this was unnecessary. For example, if the question submitted was asked of the Cabinet Member, it would be a personal opinion.

It was agreed that Group Leader's would not be given a right of reply.

	<p>d) Petitions</p> <p>The Chairman outlined the petition scheme within Appendix A of the Constitution.</p> <p>Each set of procedure rules within the draft Constitution outlining how a petition would be dealt with procedurally.</p> <p>It was confirmed that the threshold for an unlimited debate length was 1500 signatures.</p> <p>The working group supported the petition scheme.</p> <p>e) Referrals to Planning Committee (Chapter 2, Rule 14)</p> <p>The process of referring an application to the planning Committee was briefly discussed, with specific attention drawn to the increased scope of the draft rules which allowed a greater number of Councillors to refer an application to the planning committee. The 'three members' referral option increase the workload of the Committee with an example being that the Ward Members from a different Ward calling in an application occurring outside of their Ward.</p> <p>In considering alternatives, the previous role of 'political spokesperson' was highlighted. It was felt that whilst the role had been beneficial, it could not be politically balanced and would not be taken further.</p> <p>It was agreed that Councillor English would approach the Development Manager (James Bailey) for their advice on the proposed referral's process.</p> <p>Due to time constraints, it was decided that the agenda be re-ordered to allow for the items within agenda item 4 to be considered.</p> <p>Leader's Report (Chapter 1, Rule 10)</p> <p>The Chairman highlighted the amended rule which had been simplified and included the addition of 'any subject relevant to the role of the Leader'.</p> <p>The working group supported the amended rule.</p> <p>Issues still to be considered:</p> <p>3.2;</p> <p>f) Nuisance of serious service failing</p> <p>3.3 Local Choice Functions</p>
<p>4. Issues for Resolution</p>	<p><u>Planning Referrals</u></p> <p>It was agreed that there would not be a planning referrals process in the new governance arrangements. The External Legal Representative confirmed that the mechanism was not commonly operational in other local authorities.</p>

	<p><u>Trustee Committees</u></p> <p>It was agreed that the Trustee Committees would be assigned to the relevant portfolio holder, with the Policy Advisory Committees to oversee the actions taken as required.</p> <p><u>Appointment etc. of Senior Officers</u></p> <p>The External Legal Representative explained that the employment and salary of Senior Officers could not be an executive function and the general process concerning the statutory officers including the Head of Paid Service and Monitoring Officer.</p> <p>Issues such as appointments and disciplinaries, were normally considered by a specifically created standing committee. During the Council's previous executive arrangements, an employment committee had been in place.</p> <p>There was no limit on the involvement of the Executive in the process and it was usual for at least one Executive Member to be involved. An example was given of the Leader and relevant portfolio holder being involved in the recruitment process for a Director. Provisions to allow for executive involvement could be included within the constitution.</p> <p>The working group was in support of an employment committee, with a membership of nine, a quorum of three and a panel size of five. The panels would be convened when necessary and apply to the positions of Chief Executive, Directors and Deputy Directors should such positions be reinstated.</p> <p>As some of the attendees had to leave the meeting due to other commitments, the following items could not be considered:</p> <p>4.1 Overview &amp; Scrutiny – call-in rights: (see draft Chapter 3, Rule 4)</p> <p>4.5 Key Decision definition</p> <p>5. Residual points from Dem Services Paper</p>
<p>5. Direction for next meeting</p>	<p>The agreed actions and amendments (as outlined below) would be implemented into the draft Constitution and sent to the External Legal Representative for consideration.</p> <p>A further section would be drafted by the External Legal Representative, to be shared in early January 2022, on the composition and form of an Employment Committee and its sub-committees.</p> <p>As the next report to the Democracy and General Purposes Committee would be published on 18 January 2022, the agreed amendments and the items that could not be considered during the group's meeting would be discussed during the next meeting on the 13 January 2022.</p>

6. Summary of Agreed Actions	<p><b><u>Actions:</u></b> That</p> <ol style="list-style-type: none"> <li>1. The Chairman would amend the Access to Information section and provide a copy to the External Legal Representative for review;</li> <li>2. The Disputes Panel be agreed as a feature of the new arrangements, with further consideration to be given to its operation in practice;</li> <li>3. The rules concerning agenda item requests be amended to reflect the Chairman’s discretion in accepting an item submitted after the deadline;</li> <li>4. The Planning Referrals Committee/Procedure be removed;</li> <li>5. An Employment Committee be created, with the External Legal Representative to draft the relevant sections in accordance with the direction provided by the working group; and</li> <li>6. The Development Manager be approached for their advice on the processes outlined in Chapter 1, Rule 14 (Provisions relating to the Planning Committee)</li> </ol> <p>The amendments would be made by the Chairman and then circulated.</p>
7. Duration of Meeting	2.00 p.m. to 4.40 p.m.

Summary of Actions agreed by working group on 13 January 2022

Action	Location in Constitution
Drafted (technical) amendments agreed.	N/A
Employment Committee text agreed .	A2, 6.6
Additional wording to be drafted to explain that meeting attendance is without prejudice to any other statutory right.	A1, 2.5 (p. 7)
'Structure of the Constitution' to remain as drafted.	A1, 3.3 (p. 8)
'Guide to the Constitution' to remain as drafted.	A1, 9 (p. 10)
'Voting' to remain as drafted.	A2, 1.1.1 (p. 11)
Use of Forward Plan agreed.	A2, 1.1.2 (p. 11)
'Responsibilities' provision to be re-drafted; to highlight that the subject is the exercise of public rights, rather than the removal of public rights.	A2, 1.2 (p. 12)
'Policy Advisory Committees' section to be slightly re-drafted; the Leader will nominate an Executive Member as Chairman with the PAC to elect to the position.	A2, 6.2.4 (p. 22)
'Delegations, Decisions and Proceedings of the Executive' to be re-drafted; to allow Officer decision making to take place without requiring a public meeting.	A2, 7.6.3 (p. 29)
'Joint Arrangements' to be redrafted to remove two-fifths requirement	A2, 9.2.4 (a) (p. 33)
Agreed that the Head of Mid Kent Legal Partnership is an officer of the Authority.	A2 10.3
SG and JB to research the operational arrangements for the Mid-Kent Services Board/other Joint arrangements	Relates to A2, 9.2 (p. 33)
Reference to Rule 14 rather than 17 agreed.	B2, 2.5 (p. 43)

Removal of 'Appointments' agreed.	B4, (p. 71)
Agreed that Proper Officer Functions do not require review	Part B
'Introduction' to Council Procedure Rules to be re-drafted to avoid confusion on Council v. Scrutiny	C1, 1.2 (p. 100)

**DEMOCRACY AND GENERAL  
PURPOSES COMMITTEE**

**16 February 2022**

**Member Training on the New Governance Arrangements**

<b>Final Decision-Maker</b>	Democracy and General Purposes Committee
<b>Lead Director</b>	Director of Finance and Business Improvement
<b>Lead Officer and Report Author</b>	Angela Woodhouse, Head of Policy, Communications and Governance
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report sets out the proposed briefing and training arrangements to embed the new governance arrangements and constitution which will be in place from the Annual Meeting on 21 May 2022.

**Purpose of Report**

Decision

**This report makes the following recommendation to this Committee:**

The three stage approach as set out in section 3, Option 1, for ensuring Councillors are briefed on the new constitution and development suggested for embedding the new governance model is approved.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee	16 February 2022

# Member Training on the New Governance Arrangements

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Effective governance arrangements ensure that the Council’s objectives are met, the report sets out proposals for Member training on the new model of governance and constitution to embed the new system.</p>	Head of Policy, Communications and Governance
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>Effective governance arrangements ensure that the Council’s objectives are met, the report sets out proposals for Member training on the new model of governance and constitution to embed the new system.</p>	Head of Policy, Communications and Governance
<b>Risk Management</b>	Already covered in the risk section	Head of Policy, Communications and Governance
<b>Financial</b>	A member training budget is in place and the proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team

<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Head of Policy, Communications and Governance
<b>Legal</b>	There are no specific legal implications. However, Council seeks to exercise its functions in the best way to secure effective decision making within its adopted system of governance and in accordance with its constitution. The briefing and training proposed in this report will contribute to this process	Interim Deputy Head of Legal Partnership
<b>Privacy and Data Protection</b>	No impact	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Head of Policy, Communications and Governance
<b>Crime and Disorder</b>	The recommendation will have a negative impact on Crime and Disorder. The Community Protection Team have been consulted and mitigation has been proposed	Head of Policy, Communications and Governance
<b>Procurement</b>	On accepting the recommendations, the Council will then follow procurement exercises for any external training required. We will complete those exercises in line with financial procedure rules.	Head of Policy, Communications and Governance
<b>Biodiversity and Climate Change</b>	Specific training on biodiversity and climate change and Member roles and responsibilities will be included in the Member Training Programme for 2022-23, a full report on the proposed plan will be brought to this Committee in June 2022.	Biodiversity and Climate Change Officer

## **2. INTRODUCTION AND BACKGROUND**

- 2.1 In May 2021 the Council resolved to change its governance arrangements from a Committee System to an Executive and Scrutiny Model with Policy Advisory Committees in place undertaking pre-decision scrutiny.
- 2.2 As part of the transition to a new model of governance the constitution is in the process of being rewritten through a working group of this Committee prior to submission to Council on 13 April 2022.
- 2.3 Both the change in governance arrangements and the new constitution will require training for all Councillors. This was identified in the report on the new model considered by this Committee and then Council in September 2021.
- 2.4 The proposal is to split the approach into three stages

Stage 1 – Ensure all Councillors are briefed on the draft new constitution prior to consideration at full Council.

Stage 2 - training for Councillors on the operation of Executive and Scrutiny Arrangements and Procedure Rules for meetings of Council, Executive and Committees as part of the Member Induction to which all Members will be invited.

Stage 3 - bespoke training for key roles to be delivered post-annual meeting as part of the Member Development Programme for 2022-23 and will include Chairing Skills, Overview and Scrutiny Skills (budget scrutiny, questioning etc), training for Committee roles such as Licensing and Planning.

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## **3. AVAILABLE OPTIONS**

### **Option 1**

#### **Briefing on the New Draft Constitution**

- 3.1 It is proposed that to enable all Members to make an informed decision on the new constitution as it is a significant change to present or previous models a briefing is held prior to the Council Meeting in April on Monday 11 April at 6:30 pm via Microsoft Teams. The session will focus on the main changes to the document and the plain English guide to the constitution which is currently under production.

#### **Training on New Governance Model and Procedures**

- 3.2 Training will be delivered by Officers on the proposed new governance model in two sessions. One will be to describe the new arrangements and in particular decision making in the new system and the second will be a session on the procedure rules for Council, the Executive and Committees. These sessions will be carried out as part of the new Member Induction to which all Councillors are invited in May/June.

### **Member Development Programme 2022-23**

- 3.3 A Member Development Programme will be developed and brought forward to this committee for consideration and approve in June 2022 or at the first full meeting of the Committee. The report will include training for specific Councillor and Committee roles and requirements for example scrutiny training, councillor call for action and conducting reviews covering the latest guidance and legislative framework and powers. The programme will also include briefing sessions on key topics and areas of work. The programme should be reviewed at the mid-year point to ensure any new areas of training on specific areas of governance can be included in the programme.

#### **Option 2**

- 3.4 This Committee could identify and request a different approach for the briefing and training of Members on the new arrangements. There is a budget available for external training if that is deemed appropriate.

#### **Option 3**

- 3.5 Do nothing, the Committee could decide that training is not necessary on the new arrangements. As it has been 5 years since the Council last operated an executive model, the significant difference to the previous executive system and a number of Councillors only have experience of the Committee System not providing any training on the new system is not recommended.

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Committee is recommended to take forward option 1. Option 1 will be delivered through inhouse resources for the briefing and initial training sessions. Bespoke training can be commissioned via external suppliers for the new roles such as scrutiny and existing roles for example chairing skills. This can be taken forward as part of the member development programme for 2022-23.

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## **5. RISK**

- 5.1 The options recommended will mitigate the risk to effective governance and decision making following the change to council's governance model.

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## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 This Committee has been instrumental in the development of the new Model and constitution. As part of the development of the new model. Member training was considered in September 2021.

**7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 Officers will take forward the option agreed. There will also be training for officers on the new model and constitution.

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**8. REPORT APPENDICES**

None

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**9. BACKGROUND PAPERS**

None

**Democracy and General Purposes Committee**

**16 February 2022**

**Local Government Boundary Review – New Ward Boundary Principles**

<b>Final Decision-Maker</b>	Democracy and General Purposes Committee
<b>Lead Head of Service</b>	Angela Woodhouse, Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Ryan O’Connell, Democratic and Electoral Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report sets out the principles on which the new ward boundaries scheme will be put together for submission to the Local Government Boundary Commission for England (LGBCE) as part of Maidstone’s Local Government Boundary Review (LGBR).

**Purpose of Report**

Decision

**This report makes the following recommendation to this Committee:**

That the principles set out in paragraph 2.4 be agreed.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee (Principles)	16 February 2022
Democracy and General Purposes Committee (Recommended Submission)	9 March 2022
Council (Final Submission)	13 April 2022

# Local Government Boundary Review – New Ward Boundary Principles

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<p><b>Impact on Corporate Priorities</b></p>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Whilst the Local Government Boundary Review doesn't directly contribute to the council's corporate priorities, it does contribute to all of them indirectly by ensuring that the council's wards and electoral arrangements are fit for purpose and provide for electoral equality as well as achieving the statutory objectives of the Local Government Boundary Commission for England.</p> <ul style="list-style-type: none"> <li>• Electoral Equality</li> <li>• Community Identity</li> <li>• Effective and Convenient Local Government</li> </ul>	<p>Democratic and Electoral Services Manager</p>
<p><b>Cross Cutting Objectives</b></p>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>See impact on corporate priorities.</p>	<p>Democratic and Electoral Services Manager</p>

<b>Risk Management</b>	The LGBR is run the by the LGBCE and the Council's role is to provide a submission to the consultation that meets the LGBCE's statutory objectives and makes the most convincing case for a warding scheme that benefits Maidstone. The primary risk in this work is that Council submits a proposal that is not fit for purpose. The principles and process set out manage that risk.	Democratic and Electoral Services Manager
<b>Financial</b>	There are none.	Democratic and Electoral Services Manager
<b>Staffing</b>	The staffing from this project is provided from existing staffing drawn from several teams. There is no financial impact to this, but it represents an opportunity cost as the staff spend their time on this project. The limited timescales for the project mean that this is manageable.	Democratic and Electoral Services Manager
<b>Legal</b>	The review is being conducted by the LGBCE under its powers in The Local Democracy, Economic Development and Construction Act 2009.	Legal Team
<b>Privacy and Data Protection</b>	There are none.	Democratic and Electoral Services Manager
<b>Equalities</b>	Achieving electoral equality is one of the statutory objectives of the Local Government Boundary Review.	Democratic and Electoral Services Manager
<b>Public Health</b>	There are none.	Democratic and Electoral Services Manager
<b>Crime and Disorder</b>	There are none.	Democratic and Electoral Services Manager
<b>Procurement</b>	There are none.	Democratic and Electoral Services Manager

<b>Biodiversity and Climate Change</b>	There are none.	Democratic and Electoral Services Manager
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## 2. INTRODUCTION AND BACKGROUND

- 2.1 This report builds on the report brought to the Committee in January 2022 setting out the approach to producing a warding scheme submission to the LGBCE.
- 2.2 Due to the intense period of work and short timescales officers are working and will continue to work on possible boundary proposals between now and submission to the Committee on 9 March 2022. This work includes Member involvement and in order to present something for Members to work with at the first Member workshop a set of principles have been agreed that officers are currently working to. These principles have been discussed with the LGBCE.
- 2.3 Although officers have, through necessity, already begun working up boundaries on the basis of these principles, the Committee are asked to consider them for two reasons. Firstly, to inform Members of the approach the LGBCE will expect any submission to take and enable Members to come to the workshops with an understanding of what is required, and secondly Members are asked to agree the principles in case there are changes or additional principles they would like to see applied. With the pace of work required to achieve a sound submission any changes can quickly be incorporated into proposals for the first Member workshop on 18 February 2022.
- 2.4 The principles that Members are asked to agree (and officers are currently working to) are:
1. There are no restrictions on combinations of 1, 2, or 3 Member wards and the projected electorate figures for 2027 are to be used.
  2. **Blank sheet of paper** - there are no protections for existing wards and decisions will be based on the three LGBCE objectives, not on existing ward boundaries. The objectives are:
    - i. Electorate equality for voters,
    - ii. Community identities and interests, and
    - iii. Effective and convenient local government
  3. We will combine parishes in different combinations to now where it helps to achieve the three objectives.
  4. We will consider the urban area as one set of wards, and the rural area as another set of wards, whilst being aware of the overall impact on the borough as a complete scheme of wards.

5. We will make boundary adjustments for the urban area and its growth over the last 21 years and projected growth to 2027 (managing so called development 'overspill').
  6. This could split parishes across wards – the LGBCE would create parish wards in those instances and these would be reviewed in 2023 as part of the community governance review.
  7. In the urban area, without parish building blocks, we will look for physical boundaries to guide decisions on wards.
  8. We recognise that urban and rural, and parished and non-parished are not the same and that this could present particular challenges in certain areas.
- 2.5 The LGBCE recommend starting from a blank borough map, and using clear and obvious physical boundaries and parishes as building blocks. For Maidstone, due to the clear urban/rural split, it is appropriate to use the defined urban boundary (defined through the Local Plan Review) as a boundary too. Using this approach produces a starting map with the rural areas with parishes on one side and the urban area divided into two as shown in Appendix 1.
- 2.6 From that base position proportions of the electorate and the ratio of required councillors provide a good starting point to draw boundaries from. Officers have several workshops in the w/c 7 February 2022 that will allow options to be considered and presented to Members.

### **Member Engagement**

- 2.7 The following formal Member Engagement is planned:

Three workshops have been arranged with councillors. These are on:

- 18 February 2022 – During the day, all day. This will be split into discreet sessions (am and pm) for different groups of councillors to drop into – virtual only
- 22 February 2022 – evening (6.30pm) – virtual and physical (preferred)
- 28 February 2022 – evening (6.30pm) – virtual and physical (preferred)

Officers will have prepared scenarios so that councillors have a starting point to comment and work from. Those scenarios will be based on the agreed principles.

- 2.8 Informal Member Engagement

- Officers may contact Ward Members during the day (or evening) where they are working on a particular area that requires changes and a local councillor view would be beneficial.

- If required we may have project sessions on particular areas and invite a councillor(s) to attend. This is likely to be very rare, but if there are particularly difficult boundaries to resolve we may need to do this.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option 1 - That the principles set out in 2.4 be agreed.
- 3.2 Option 2 - That the principles set out in 2.4 be amended and then agreed.
- 3.3 Option 3 - That the Committee reject the principles in 2.4 and come up with an entirely different set of principles (not recommended).

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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option 1, that the principles set out in 2.4 be agreed, is the preferred option. Though the feedback and views of Members are welcomed and option 2 would be appropriate where further principles are identified that meet the requirements of a submission to the LGBCE.
- 4.2 This is the preferred option as the principles are drawn from LGBCE guidance, presentations and discussions, and will both enable the work to be progressed and to produce a submission to the commission that is likely to carry significant weight.

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### **5. RISK**

- 5.1 The LGBR is run the by the LGBCE and the Council's role is to provide a submission to the consultation that meets the LGBCE's statutory objectives and makes the most convincing case for a warding scheme that benefits Maidstone. The primary risk in this work is that Council submits a proposal that is not fit for purpose. The principles and process set out manage that risk.

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### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Regular reports on the LGBR have been presented to the committee throughout this municipal year. The last such report was presented to committee on 26 January 2022.

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 The principles are being applied to the warding scenarios being developed. The process includes member involvement as set out in paragraphs 2.7 and 2.8.

7.2 The decision making will be as follows:

- Democracy and General Purposes on 9 March 2022 will make the recommendation to Council
- Council on 13 April 2022 will be the ultimate decision maker.

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## **8. REPORT APPENDICES**

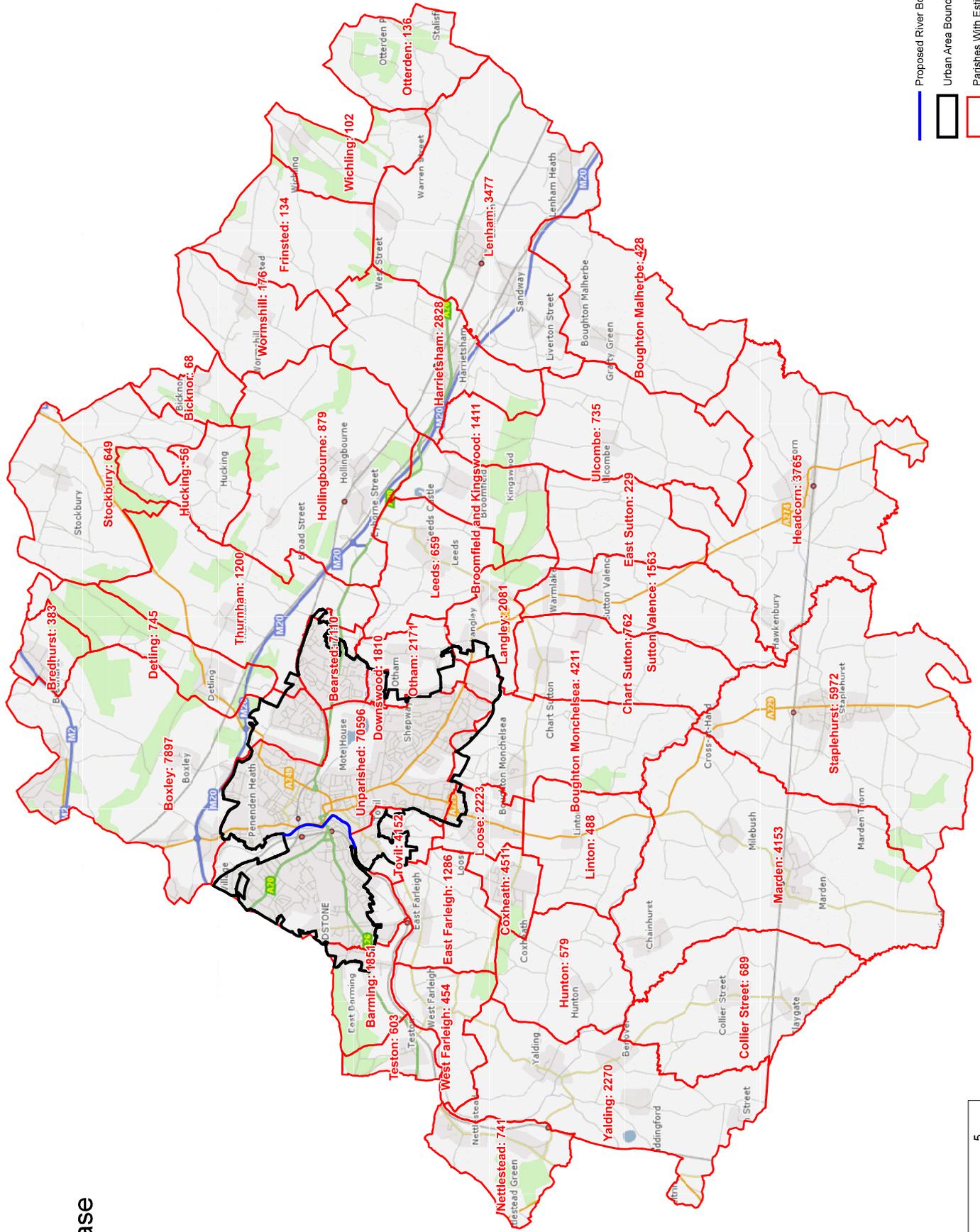
Appendix 1: Base Ward Boundary Review Map

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## **9. BACKGROUND PAPERS**

None

# Maidstone Borough Boundary Review Base Map



- Proposed River Boundary
- Urban Area Boundary
- Parishes With Estimated Electorate Increase

