

**PART 3**

**RULES OF PROCEDURE**

**CABINET MEMBERS VERSION**

**WITH MAY/JUNE 2013 CHANGES**

**And STRUCTURE CHANGES SEPTEMBER 2013**



3.1 **Council Procedure Rules**

**ANNUAL MEETING OF THE COUNCIL**

3.1.1 **Timing and Business**

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

The Annual Meeting will:-

- 3.1.1.1 elect a person to preside if the Lord Mayor and the Deputy Lord Mayor are not present;
- 3.1.1.2 receive any apologies for absence;
- 3.1.1.3 receive any correspondence and announcements of the Lord Mayor;
- 3.1.1.4 elect the Chair of the Council (being Lord Mayor of the City);
- 3.1.1.5 give a vote of thanks to the Retiring Lord Mayor
- 3.1.1.6 elect the Vice-Chair of the Council (being Deputy Lord Mayor of the City);
- 3.1.1.7 elect the Leader of the Council in any year in which the current Leader's term of office expires. If the Council does not elect the Leader at the Annual Meeting, the election of the Leader shall be an item on the agenda at every ordinary meeting of the Council after the Annual Meeting until the Leader is elected. The existing Leader appoints a Deputy Leader and Cabinet for the discharge of Executive Functions until the Leader is elected; where this is not possible, the Deputy Leader shall become Leader and appoint a Deputy Leader and Cabinet for the discharge of Executive Functions until the Leader is elected.
- 3.1.1.8 receive the report of the Leader of the Council on the appointment of the Deputy Leader, ~~and~~ the composition of the Cabinet and the appointment of Deputy Cabinet Members and the allocation of Executive Functions within the Cabinet;
- 3.1.1.9 agree the minutes of the last meeting and their signature;
- 3.1.1.10 receive the return of persons elected as Councillors (when applicable);
- 3.1.1.11 receive any declarations of interest from Councillors;
- 3.1.1.12 establish the Licensing and Regulatory Committee, Planning Committee, Health and Wellbeing Board, Scrutiny Co-ordination Committee, Scrutiny Boards, Audit and Procurement Committee, an Ethics Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 2, of this Constitution. This may also include the appointment of the Chair and Deputy Chair of those bodies;
- 3.1.1.13 decide the size and terms of reference for those Scrutiny Boards and Committees;

- 3.1.1.14 decide the allocation of seats to political groups in accordance with the political balance rules;
- 3.1.1.15 receive nominations and appoint Councillors to serve on each Scrutiny Board, and Committee;
- 3.1.1.16 receive nominations and appoint to outside bodies
- 3.1.1.17 approve a programme of ordinary meetings of the Council, Cabinet, Scrutiny Boards, Committees and Advisory Panels for the year including the date and time of the next Annual Meeting; ~~and agree the scheme of delegation as set out in Part 2 of this Constitution~~; and
- 3.1.1.18 consider any business set out in the notice convening the meeting.

**3.1.1.19 Note**

If it becomes clear either before the Annual Meeting or on the day itself that there are areas of contention, then the fall back position will be to adjourn the Annual Meeting following the appointment of the Lord Mayor/Deputy Lord Mayor and reconvene to a future date provided that it complies with the timescale referred to at 3.1.1.

**ORDINARY MEETINGS**

- 3.1.2 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:-
  - 3.1.2.1 elect a person to preside, if the Lord Mayor and the Deputy Lord Mayor are not present;
  - 3.1.2.2 receive any apologies for absence;
  - 3.1.2.3 agree the minutes of the last meeting and their signature;
  - 3.1.2.4 receive any return of persons elected as Councillors;
  - 3.1.2.5 present the Citizen of the Month Award;
  - 3.1.2.6 receive any correspondence and announcements of the Lord Mayor;
  - 3.1.2.7 receive any petitions in accordance with the Petitions Procedure Rules ~~set out in Part 3.9~~;
  - 3.1.2.8 receive any declarations of interest by Councillors;
  - 3.1.2.9 determine any matters left for determination by the City Council;
  - 3.1.2.10 consider recommendations for the City Council;

- 3.1.2.11 receive questions and provide answers to Councillors (except at the Council Tax/Budget setting meeting);
- 3.1.2.12 receive any statement by the Leader of the Council or her/his nominated speaker on any changes to the composition of the Cabinet or allocation of executive functions within the Cabinet or to employees or on any matter of significant importance to the City;
- 3.1.2.13 consider motions;
- 3.1.2.14 approve extensions to the programme of ordinary meetings of the Council, Cabinet, Scrutiny Boards and Committees;

### **Procedural Matters**

- 3.1.15 Any ordinary meeting of the Council may be cancelled, rearranged or relocated by the ~~Director of~~ Executive Director, Resources Customer and Workforce Services after consultation with the Lord Mayor and the Leader of the Council. Where there is no formal Council Business to consider and approve (i.e. recommendations or items for consideration) the Council Meetings identified as "If Necessary" in the Municipal Calendar may be cancelled, but only following consultation with the Lord Mayor and the Leader of the Council.

~~A further procedure for dealing with the cancellation of "If Necessary" council meetings is detailed in paragraph 7.9.1 of this Constitution.~~

### **EXTRAORDINARY MEETINGS**

#### **3.1.3 Calling Extraordinary Meetings**

- 3.1.3.1 Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:-

- (a) the Council by resolution;
- (b) the Lord Mayor;
- (c) the ~~Executive Director, Resources Director of Customer and Workforce Services~~/Monitoring Officer; or
- (d) any five Councillors if they have signed a requisition presented to the Lord Mayor and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

- 3.1.3.2 Any requisition under Rule 3.1.3.1(d) will be addressed to the Lord Mayor by being left for the Lord Mayor at a location\* designated by the ~~Executive Director, Resources Director of Customer and Workforce Services~~. The requisition will indicate the business to be transacted at the meeting.

\*NB: The location currently designated is Room 59 in the Council House.

3.1.3.3 The date, time and location of any extraordinary meeting will be fixed by the Executive Director, Resources Director of Customer and Workforce Services after consultation with the Lord Mayor and the Leader of the Council.

3.1.3.4 Honorary Aldermen

The Council has approved a protocol for the enrolment of Honorary Aldermen. That protocol is attached at Appendix 1 to this part.

### TIME AND PLACE OF MEETINGS

3.1.4 The time and place of meetings will be determined by the Executive Director, Resources Director of Customer and Workforce Services and notified in the summons.

3.1.5 There will be no restriction on the duration of meetings except that if any Council meeting continues for a period of more than 3 hours, there will be a break in proceedings as soon as 3 hours has elapsed since the start of the meeting unless the Council votes unanimously to continue without a break or the Lord Mayor or other person chairing the meeting determines that the remainder of the business of the meeting can be concluded within a reasonable time so as to render any break unnecessary. The break will be for ~~a minimum of 5 minutes and~~ a maximum of 30 15 minutes. This provision is intended to safeguard the health and wellbeing of Councillors and employees present at any meeting.

### NOTICE OF AND SUMMONS TO MEETINGS

3.1.6 The Executive Director, Resources Director of Customer and Workforce Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Executive Director, Resources Director of Customer and Workforce Services will send a summons signed by him or her by post to every Councillor or leave it at their usual place of residence or such other place as requested. 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.

### CHAIR OF MEETING

3.1.7 The Lord Mayor or, in her/his absence, the Deputy Lord Mayor will chair meetings of the City Council. In the absence of both the Lord Mayor and the Deputy Lord Mayor, the City Council will elect another Councillor, other than a Member Councillor of the Cabinet, to chair the meeting.

3.1.8 If it is necessary to select a Councillor to chair the meeting in the absence of the Lord Mayor and the Deputy Lord Mayor, the Chief Executive (or, in her/his absence, the Council Solicitor) will call for a Councillor to move that another Councillor should be nominated to chair the meeting.

3.1.9 If discussion arises on that motion, the Chief Executive (or, in her/his absence, the Council Solicitor) will exercise the powers of the Chair to regulate that discussion and to maintain order at the meeting.

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- 3.1.10 The Lord Mayor will be addressed "Lord Mayor". The Deputy Lord Mayor when chairing the meeting will be addressed as "Deputy Lord Mayor" and any other Councillor elected to chair a meeting will be addressed as "Chair".
- 3.1.11 The Deputy Lord Mayor or other Councillor chairing the meeting will be entitled to exercise any power of the Lord Mayor in relation to the conduct of that meeting.

**QUORUM**

- 3.1.12 Subject to Rule 3.1.16, no business will be dealt with unless there is a quorum of 14 Councillors.
- 3.1.13 If, at the expiration of 15 minutes after the time at which any meeting is appointed to be held, there is no quorum present, the meeting will not take place.
- 3.1.14 If during any meeting, the Lord Mayor, after counting the number of Councillors present, declares that there is not a quorum present, the meeting will stand adjourned for fifteen minutes.
- 3.1.15 If, after 15 minutes, there is no quorum present, the meeting will end. The consideration of any business not transacted will be adjourned to a date, time and location fixed by the Lord Mayor at that time or, if she/he does not fix a date, time and location at that time, to the next ordinary meeting.
- 3.1.16 If Councillors are required to leave the meeting under the Code of Conduct for Elected and Co-opted Members their leaving the meeting will not affect the quorum.

**QUESTIONS BY COUNCILLORS**

- 3.1.17 At ordinary meetings of the Council, except the Council Tax and/or Budget setting meeting, there will be a Question Time. The procedure for dealing with Written Questions at Council Meetings is set out at paragraph 3.1.18.

3.1.18 A Councillor may put in writing a question concerning any matter relating to Council business to be answered at the meeting by the appropriate Cabinet Member, Deputy Cabinet Member, Chair or other Councillor. Such questions must be delivered to the Executive Director, Resources ~~Director of Customer and Workforce Services~~ at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. The deadline for receiving written questions is 9.00 am on the Monday, a week before the Council Meeting on the Tuesday. As soon as any question is received, it will be forwarded to the appropriate Cabinet Member, Deputy Cabinet Member, Chair or other Councillor and Director.

\*NB The location currently designated is Room 59 in the Council House.

~~3.1.18~~3.1.19 The Cabinet Member, Deputy Cabinet Member, Chair or other Councillor will arrange for a written response to be prepared, which must be with him/her by 5.00 pm on the Friday before Council.

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- 3.1.20 The Cabinet Member, Deputy Cabinet Member, Chair or other Councillor will then have up until 4.00 pm on the Monday the day before Council to check the responses before it needs to be e-mailed to the appropriate Governance Services Officer. The Governance Services Officer will then send the responses to all Councillors by 5.00 pm on the Monday. Copies of all the responses will be circulated at the Council meeting.
- 3.1.21 While an answer may will normally be written and circulated to Councillors at the meeting, it may also given orally by the Cabinet Member, Deputy Cabinet Member, Chair or other Councillor replying, or a combination of both. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which in her/his opinion is irrelevant or frivolous or a repetition of or substantially similar to a question already asked upon that part of the proceedings.  
~~\*NB The location currently designated is Room 59 in the Council House.~~
- 3.1.19 A Councillor may ask a Chair of a Scrutiny Board, the Scrutiny Co-ordination Committee or the Chair of any other Body any oral question relating to the work of that Board, Committee or Body. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. The Chair will reply orally at the meeting or a written answer will be circulated to Councillors after the meeting within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral question which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to the question(s) already asked.
- 3.1.20 A Councillor may ask the nominated spokespersons of the ~~West Midlands Police Authority~~, West Midlands Fire & Rescue Authority or the West Midlands Passenger Transport Authority a written question about any matter which relates to the work of that Authority. The question must be delivered to the Executive Director, Resources ~~Director of Customer and Workforce Services~~ at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. An answer may be written and circulated to Councillors at the meeting, given orally by the nominated spokesperson or a combination of both. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral questions which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked.  
~~\*NB The location currently designated is Room 59 in the Council House.~~
- 3.1.21 A Councillor may ask another Councillor or an Employee, who is a director of an authorised company as defined by Section 71(1) of the Local Government and Housing Act 1989, a written question about any matter which relates to the activities of that company. The question must be delivered to the Executive Director, Resources ~~Director of Customer and Workforce Services~~ at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. An answer may be written and circulated to Councillors at the meeting, given orally or a combination of both. Nothing will require the other Councillor or the Employee to disclose any information about the company which has been communicated to her/him in confidence. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any oral questions which, in her/his opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked.  
~~\*NB The location currently designated is Room 59 in the Council House.~~



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- 3.1.22 A Councillor may ask a Council representative on an outside body an oral question at the meeting without prior notice being given on any matter pertaining to that outside body. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. An answer may be given orally by the representative on the outside body at the meeting or a written answer circulated to Councillors after the meeting, within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which in her/his opinion is irrelevant or frivolous or a repetition of or substantially similar to a question or question(s) already asked.
- 3.1.23 A Councillor may ask a Cabinet Member or ~~–a Deputy Cabinet~~ ~~an~~ Member, an oral question at the meeting without prior notice being given on any other matter relating to the Cabinet Member's or the Deputy Cabinet Member's portfolio. The Lord Mayor will call on Councillors in the order in which they catch her/his eye. An answer may be given orally by the Cabinet Member or the Deputy Cabinet Member at the meeting or a written answer circulated to Councillors after the meeting, within 7 working days of the meeting. The Lord Mayor will have the power to allow supplementary oral questions and to disallow any such question which, in his/her opinion, is irrelevant or frivolous or a repetition of or substantially similar to a question or questions already asked.
- 3.1.24 All questions referred to in rule 3.1.18, 3.1.20 and 3.1.21 will be considered in the order received by the ~~Executive Director, Resources Director of Customer and Workforce Services~~. The Lord Mayor may change the order of questions at the meeting if she/he considers it expedient. Copies of all questions will be circulated to all Councillors and made available to the public attending the meeting.
- 3.1.25 No paperwork may be circulated at the meeting in respect of oral questions.

**MOTIONS ON NOTICE**

- 3.1.26 Every notice of motion to be inserted in the summons for the next meeting of the City Council will be in writing and signed by the Councillor intending to move it and by the Councillor intending to second it. The notice must be delivered to the Director of Customer and Workforce Services at a location\* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. The ~~Executive Director, Resources Director of Customer and Workforce Services~~ will only accept notices of motion which fulfill these requirements and will not accept more than one notice of motion intended to be moved (and seconded) by a Councillor(s) of any one Political Group. The ~~Executive Director, Resources Director of Customer and Workforce Services~~ will enter every such motion and the time and date of its receipt in a book to be kept in a location designated by her/him and such book will be open to the inspection of every Councillor and will be open for public inspection.

\*NB The location currently designated is Room 59 in the Council House.

- 3.1.27 The ~~Executive Director, Resources Director of Customer and Workforce Services~~ will set out in the summons for every meeting of the City Council, all motions of which notice has been duly given under the heading "Debates", in the order in which they have been received unless the Councillor giving such notice intimated in writing, when giving it, that she/he proposed to move it at some later meeting, or has since withdrawn it in writing.

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- 3.1.28 If a motion set out in the summons is not moved and seconded either by the Councillor who gave notice thereof, or by some other Councillors on their behalf it will, unless postponed by consent of the City Council, be treated as withdrawn and will not be moved without fresh notice.
- 3.1.29 The mover of a motion or amendment will speak for no more than 5 minutes. All other speeches on the motion will each be for no more than 3 minutes.
- 3.1.30 An amendment to a notice of motion will not be discussed unless it has been moved and seconded. It will be put in writing and handed to the Executive Director, Resources Director of Customer and Workforce Services before it is put to the meeting.
- 3.1.31 When a motion is made in pursuance of a notice of motion, and the subject is referred by the City Council to a Body, the Executive Director, Resources Director of Customer and Workforce Services will send notice of the meeting at which the subject will be considered to the proposer and seconder of the motion, unless they are themselves members of that Body. The proposer and seconder will not be entitled to vote unless either of them is a member of the Body.
- 3.1.32 If a motion is made in pursuance of a notice of motion which would increase expenditure of the City Council, or reduce income to the City Council, then the motion will be regarded as tentative only and will be referred by the City Council to the appropriate Body for them to consider and make their views known to the City Council before formal approval is given.
- 3.1.33 The tentative decision will be included in the summons for the next appropriate meeting of the City Council where the City Council may confirm, amend or rescind it, having regard to the views of the appropriate Body.

**MOTIONS WITHOUT NOTICE**

- 3.1.34 The following motions may be moved without notice:
- 3.1.34.1 to elect a Councillor to chair the meeting;
- 3.1.34.2 to agree the minutes of the previous meeting;
- 3.1.34.3 to re-order the business on the agenda;
- 3.1.34.4 to refer an item to the agenda of the next ordinary meeting, or to the Cabinet, Scrutiny or a City Council Committee;
- 3.1.34.5 to combine debates on items on the agenda;
- 3.1.34.6 to withdraw an item from the agenda;
- 3.1.34.7 to suspend particular Council Procedure Rules;

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- 3.1.34.8 not to hear, on the motion of the Lord Mayor, a Councillor further or to require a Councillor to leave a meeting;
- 3.1.34.9 to record the Council's appreciation or condolence;
- 3.1.34.10 to receive a petition;
- 3.1.34.11 to refer a matter raised by a petition or question to the Cabinet, Scrutiny, City Council Committee or to an external body;
- 3.1.34.12 to obtain the agreement of the meeting in any case where a particular Council Procedure Rule requires it;
- 3.1.34.13 to appoint Councillors or other persons to an external body;
- 3.1.34.14 to proceed to the next business;
- 3.1.34.15 that the questions now be put;
- 3.1.34.16 to adjourn a debate; (see also 3.1.54 and 3.1.55)
- 3.1.34.17 to adjourn a meeting;
- 3.1.34.18 to exclude the press and public in accordance with the Access to Information Rules

**PETITIONS**

- 3.1.35 Petitions will be presented as provided for in the Petitions Procedure Rules ~~set out in Part 3.9 of this Constitution.~~

**STATEMENT BY THE LEADER OF THE COUNCIL OR A NOMINATED SPEAKER**

- 3.1.36 The Leader of the Council, or a Councillor nominated by her/him, will be entitled to make a statement on an issue or matter of significant importance to the City. The statement will last no more than 10 minutes.
- 3.1.37 Where there is to be a Statement by the Leader, the Leaders of the other political groups will be notified of the subject matter at the earliest opportunity.
- 3.1.38 A Councillor from each of the other Groups represented on the Council will be entitled to respond to the statement. The response will last no more than 10 minutes.
- 3.1.39 The Leader of the Council or the nominated Councillor will be entitled to a right of reply lasting no more than 5 minutes, but there will be no further debate.

**STATEMENT BY CABINET MEMBERS OR DEPUTY CABINET MEMBERS**

- 3.1.40 A Cabinet Member or Deputy Cabinet Member will be entitled to make a statement on an issue or matter within their portfolio and which is of significant importance to the City. The statement will last no more than 10 minutes.

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- 3.1.41 Where there is to be a Statement by a Cabinet Member or Deputy Cabinet Member, the Leaders of the other political groups will be notified of the subject matter at the earliest opportunity.
- 3.1.42 A Councillor from each of the other Groups represented on the Council will be entitled to respond to the statement. The response will last no more than 10 minutes.
- 3.1.43 The Cabinet Member or Deputy Cabinet Member will be entitled to a right of reply lasting no more than 5 minutes, but there will be no further debate.

**RECOMMENDATIONS SUBMITTED TO THE CITY COUNCIL**

- 3.1.44 Recommendations submitted to the City Council will be reproduced and a copy will be issued to each Councillor prior to or with the summons for the meeting of the City Council at which they are to be submitted. In case of urgency, such recommendations may be issued during the interval between the summons and the meeting, provided that due notice of the business is included in the summons.
- 3.1.45 Recommendations submitted to the City Council will include all matters which are listed in Part 2 as being functions of the Council.
- 3.1.46 In case of doubt whether a delegated matter ought, under this Standing Order, to be dealt with in any particular manner, the ~~Executive Director, Resources Director of Customer and Workforce Services~~ will have the power to decide the point and her/his decision will be final.
- 3.1.47 The ~~Executive Director, Resources Director of Customer and Workforce Services~~ will reproduce the recommendations submitted to the City Council for consideration in such order as will appear to her/him to be the most convenient for consideration by the City Council.
- 3.1.48 Upon the consideration of the recommendations before Council for consideration, the motion for the confirmation of the recommendations will be submitted by the Cabinet Member, Chair, Deputy Chair, or other Councillor having charge thereof. In doing so, she/he may, with the consent of the City Council (signified without discussion), withdraw from consideration a specified item of business or move the confirmation of recommendations with a specified alteration. On the consideration of the motion, it will be competent for any Councillor to call the attention of the City Council to, and fully discuss, any subject matter referred in the recommendations which still remains before the City Council, having regard to any earlier withdrawal or amendment.
- 3.1.49 The rules of debate in Rules 3.1.50–69 will apply to recommendations.

**RULES OF DEBATE**

- 3.1.50 A diagram detailing the Process for Debates is appended as Annex 1 to this section.
- 3.1.51 A Motion or amendment will not be discussed unless it has been proposed and seconded, and it will, unless the Lord Mayor dispenses with this requirement, be produced in writing and handed in to the ~~Executive Director, Resources Director of Customer and Workforce Services~~ before it is further discussed or put to the meeting.

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A copy of any amendment(s) will be circulated to all members at the meeting when the amendment(s) has/have been moved and seconded. Every amendment must be the subject of a vote unless the amendment, having been moved and seconded, is withdrawn by the proposer.

- 3.1.52 A Councillor intending to move an amendment will declare that intention, together with the wording of the amendment and the name of the Councillor then present in the meeting who has agreed to second the amendment, within three minutes of starting to speak in the debate on a Motion. Once the amendment has been moved and seconded the debate is then on the amendment. The Councillor named to second the amendment will, immediately upon being so named, indicate her/his agreement to the Lord Mayor by show of hand. The mover of the amendment may thereupon continue to speak, provided that, in total, the length of her/his speech will not exceed five minutes.
- 3.1.53 If the mover of an amendment does not, for whatever reason, name his seconder as prescribed in 3.1.52 or, if the named seconder fails to indicate agreement by show of hand, the mover of the amendment will speak for no more than three minutes and will then sit. The Lord Mayor will then call for a seconder of the amendment. If any Councillor present seconds the amendment, the mover of the amendment will have the right to resume his speech for a further period not exceeding two minutes. If no Councillor present seconds the amendment, the mover of the amendment will not speak further upon the amendment.
- 3.1.54 The mover of an original motion will have the right of reply at the close of a debate upon the recommendation immediately before either it is put to the vote or before a motion is put that:-
- "the question now be put"
  - "the debate be now adjourned", or
  - "that the Council so now proceed to the next business"
- If an amendment is proposed:-
- (1) the mover of the original motion will be entitled to speak on any amendment to the motion immediately before the reply and;
  - (2) the mover of the amendment will have the right of reply at the close of the debate on the amendment immediately before it is either put to the vote or before a motion is put that:-
- "the question now be put"
  - "the debate be now adjourned" or
  - "that the Council so now proceed to the next business"
- 3.1.55 A Councillor, when seconding a motion or an amendment, may reserve her/his right to speak until later in the debate provided that she/he clearly signifies her/his intention to do so.
- 3.1.56 A Councillor may speak once in relation to any motion; and once more in relation to any amendment to that motion; and once more in relation to each and every further amendment in any debate. This is in addition to any right of reply on a point of order or

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by way of personal explanation. All contributions to any debate must refer directly to the motion or the amendment before the Council.

3.1.57 A Councillor, who has not participated in the debate then before the City Council, may at the conclusion of a speech of another Councillor, move without comment "that the question be now put". On the seconding of that motion the Lord Mayor (if in her/his opinion the question has been sufficiently discussed) will put this motion to the vote. If it is carried, the question before the meeting will then be put to the vote following the reserved right to second in 3.1.55 above and the right of reply in 3.1.54 above.

3.1.58 A Councillor may move:-

- i) "that the Council do now adjourn"
- ii) "that the Council do now proceed to the next business", or
- iii) "that the debate be now adjourned"

The Councillor moving such a motion will give her/his reasons for the motion in a speech not exceeding 2 minutes. The motion must be seconded without speech.

On the seconding of that motion the Lord Mayor (if in her/his opinion the question has been sufficiently discussed) will put this motion to the vote. If it is carried, the question before the meeting will then be put to the vote following the reserved right to second in 3.1.55 above and the right of reply in 3.1.54 above.

3.1.59 A second motion "that the Council do now adjourn", "that the Council do now proceed to the next business" or "that the debate be now adjourned" will not be made within a period of 15 minutes unless it is moved by the Lord Mayor or unless some business or subject of debate is before the City Council when the second motion is moved which was not before the City Council when the first motion was moved.

3.1.60 On the resumption of an adjourned debate, the Councillor who moved the adjournment will be entitled to speak first.

3.1.61 A Councillor, when speaking must stand and address the meeting through the Lord Mayor. If more than one Councillor stands, the Lord Mayor will ask one to speak and the others will sit. Other Councillors must remain seated whilst a Councillor speaks, unless they wish to make a point of order or of personal explanation. (see 3.1.68 and 3.1.69)

3.1.62 Except as provided for in 3.1.63 below, a Councillor moving a motion or amendment may speak for not more than 5 minutes and other speeches will last no more than 3 minutes.

3.1.63 The time limits referred to in 3.1.62 above will not apply to:-  
(i) Business at annual meetings of the City Council; or  
(ii) The proposer of a recommendation to the City Council in respect of the level of Council Tax/Council Budget to be levied each year and the Leader (or nominee) of each Political Group (or their nominated speaker) on the Council budget in respect of that recommendation.

3.1.64 Every amendment must relate to the motion on which it is moved and may:-

- (i) refer a matter back to the Body concerned;
- (ii) leave out words;
- (iii) add or insert words; or
- (iv) leave out words and add or insert words

but such omissions, insertions or additions of words will not have the effect of negating the motion before the City Council.

3.1.65 If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended will become the Substantive Motion and be the motion upon which any further amendment may be moved.

3.1.66 A further amendment will not be moved until the City Council has disposed of every amendment previously moved. When an amendment is proposed, the Proposer of the original or amended Motion may decide to accept that amendment. Should the Proposer accept the amendment, then the wording contained in the amendment will be incorporated into the original or amended Motion and will be treated as part of the Motion then under debate. Where an amendment is accepted, the right of reply of the Mover of the amendment set out in paragraph 3.1.54 will not apply.

3.1.67 **Council Tax/Budget Debate Process**

- (i) The proposer of the recommendation will move the budget. This speech will not be time limited.
- (ii) This will be seconded and the seconder will speak or reserve the right to speak.
- (iii) The Leader of the Main Opposition Group (or nominated speaker) will move any amendment to the recommendation. This speech will not be time limited.
- (iv) The Deputy Leader of the Main Opposition Group (or nominated speaker) will second the amendment and speak or reserve the right to speak.
- (v) The debate on the amendment will take place; the vote on the amendment will take place and the amendment will be carried or lost. If carried, this would become the substantive motion.
- (vi) The Leader of the largest of the minority Groups (or nominated speaker) will move any amendment to the motion. This speech will not be time limited.
- (vii) A representative of that Group will second the amendment and speak or reserve the right to speak.
- (viii) As (v) above.

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- (ix) The Leader (or nominated speaker) of any of the remaining minority Groups will move any amendment (in the order in which they catch the eye of the Lord Mayor). These speeches will not be time limited. Representatives of those Groups will second the amendment and speak or reserve the right to speak. This will apply to any remaining minority Groups.
- (x) As (v) above.
- (xi) Any further amendments will be moved in the order in which the proposer catches the eye of the Lord Mayor.
- (xii) When there are no more amendments, the debate on the substantive motion takes place and the vote is taken.

Notes: 1. In accordance with the Council Procedure Rules, the mover of the original motion (or substantive motions if the original motion is amended) is entitled to speak on any amendment immediately before the reply by the mover of the amendment.

2. Should adjournments be necessary during the course of the meeting, rooms will be made available.

3. If the proposer of the recommendation is not the Leader of the Council, then the Leader of the Council will ~~be given~~ one opportunity for a speech that is not time-limited.

**3.1.68 Point of Order**

- (a) A point of order is a request by a Councillor to the Lord Mayor to rule on an alleged irregularity in the constitutional conduct of the meeting.
- (b) The Councillor will rise to make the point immediately she/he notices it and state the Procedural Rule in question, and how it is broken. Immediately after the point of order has been raised, the Councillor will resume her/his seat.
- (c) The Lord Mayor will decide the issue raised in the point of order and announce her/his ruling before the debate continues. There will be no discussion on that ruling.

**3.1.69 Point of Personal Explanation**

- (a) A Councillor may find that she/he has made a statement which is misquoted by a later speaker, or that another Councillor has misunderstood or misquoted what was said.
- (b) If this happens, she/he may rise on a point of personal explanation and, with the permission of the Lord Mayor, interrupt the speaker to correct the misunderstanding.

**COUNCILLORS' INTERESTS**



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- 3.1.70 Councillors' obligations in relation to the declaration of interests are set out in more detail in Part 4 of the Constitution

**SIX MONTH RULE**

- 3.1.71 No Councillor may move a motion or amendment to rescind a decision made at a meeting of the full City Council within the previous six months.
- 3.1.72 No Councillor may move a motion or amendment in similar terms to one which has been rejected at a meeting of the City Council in the previous six months.

Paragraph 3.1.72 does not apply to a motion to remove the Leader from the role of Leader.

**VOTING**

- 3.1.73 The vote on every question will be taken by the voice, except where by law or in these Rules it is otherwise provided, but if the Lord Mayor is unable to decide upon the voices or if any two Councillors challenge her/his decision thereon, the vote will be taken by a show of hands. Councillors are required to be seated in their allocated position when the vote is taken.
- 3.1.74 If, before the Lord Mayor finally declares the result of the vote (whether taken by the voice or by show of hands), any 2 Councillors require a recorded vote, this will supersede any vote taken under 3.1.73 above.
- 3.1.75 A recorded vote will be taken immediately afterwards and recorded in the minutes. A Councillors vote will only be recorded if the Councillor personally answers "For", "Against" or "Abstain" immediately after her/his name is called by the Council Solicitor.
- 3.1.76 Where any Councillor 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.
- 3.1.77 In the case of an equality of votes, the Lord Mayor will have a casting vote in addition to her/his vote as a Councillor.

*NOTE: As a matter of convention, at full Council meetings only where there is an equality of votes, the Lord Mayor will cast her/his casting vote in favour of the largest political group represented on the Council*

- 3.1.78 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.

**MINUTES**

- 3.1.79 The minutes of every meeting of the City Council will be reproduced and a copy sent before the next subsequent meeting to each Councillor. At such subsequent meeting, the Lord Mayor will call for a motion that the minutes of the previous meeting be signed

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as a correct record. Once such motion is approved, the minutes will be signed by the Lord Mayor. The only part of the minutes that can be discussed is their accuracy.

- 3.1.80 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.

**EXCLUSION OF PUBLIC**

- 3.1.81 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 3 of this Constitution or Rule 3.1.88.

**MEMBERS' CONDUCT**

- 3.1.82 When the Lord Mayor stands during a debate, any Councillor speaking at the time will sit down. All Councillors must be silent.

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

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

- 3.1.85 In the event of general disturbance which, in the opinion of the Lord Mayor renders the due and orderly despatch of business of the meeting impossible, the Lord Mayor (in addition to any other power invested in her/him) may, without question, adjourn the meeting for such period as she/he in her/his discretion considers expedient.

- 3.1.86 In accordance with Rule 3.1.16, if Members are required to leave the meeting under Rule 3.1.84 their leaving the meeting will not affect the quorum.

- 3.1.87 ~~All~~ Electronic devices ~~may~~ will be switched ~~on~~ off during the public part of meetings of the City Council.

**DISTURBANCE BY THE PUBLIC**

- 3.1.88 If a member of the public disrupts the proceedings at any meeting, the Lord Mayor will issue a warning. If the member of the public continues the interruption, the Lord Mayor will order the removal of the member of the public from the Council Chamber. In the case of general disturbance in any part of the Council Chamber open to the public, the Lord Mayor will order that part to be cleared.

**SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

3.1.89 **Suspension**

All of these Council Rules of Procedure except Rule 3.1.77 and 3.1.89 may be suspended by motion on notice or without notice. Suspension can only be for the duration of the meeting.

3.1.90 **Amendment**

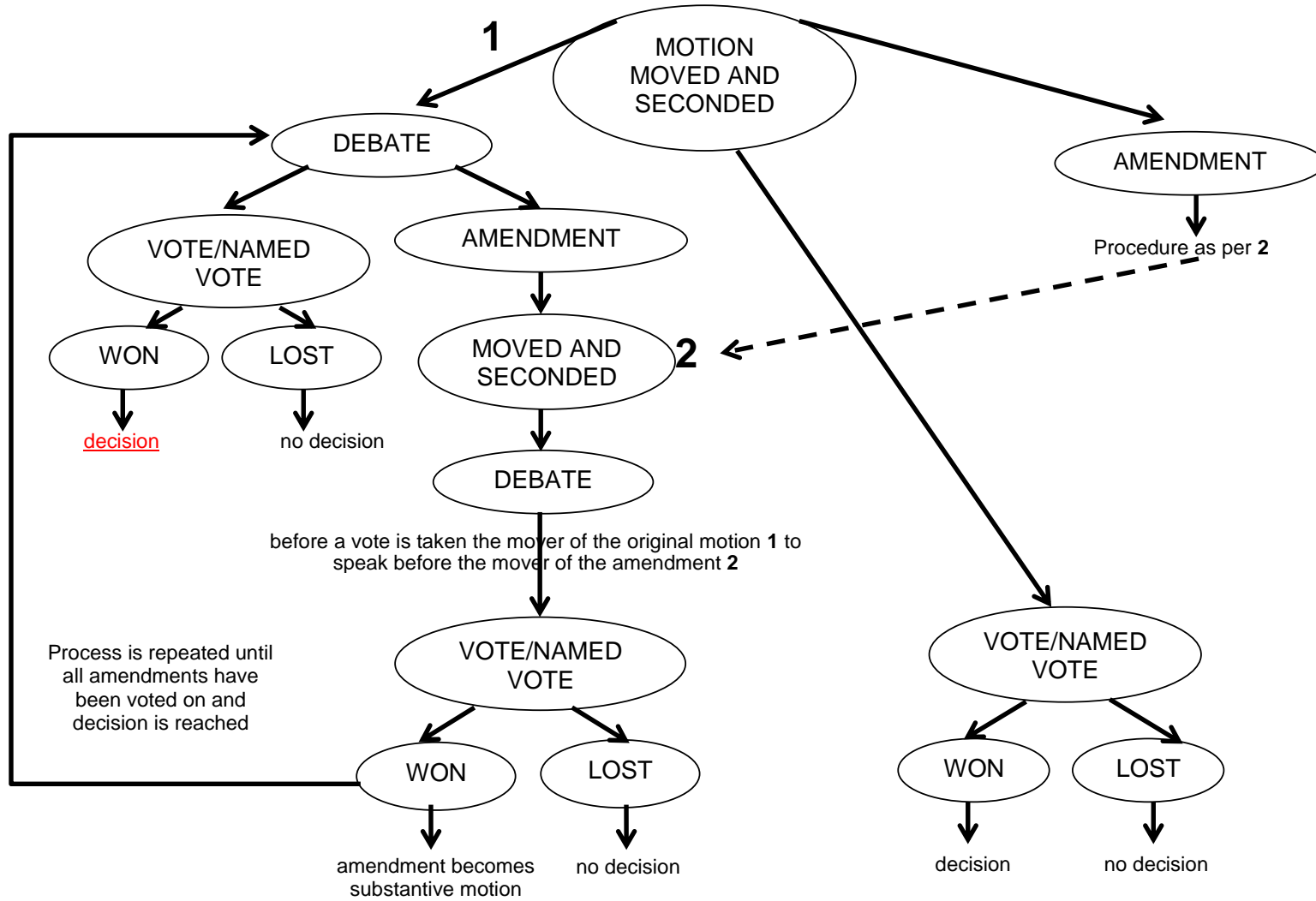
Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

**APPLICATION OF COUNCIL PROCEDURE RULES TO OTHER BODIES**

3.1.91 These rules where they can be appropriately applied, apply to all formal meetings of bodies of the Council. These rules will not apply where the specific rules of procedure relating to any such body already make provision for the activity to be undertaken and/or procedure to be followed at meetings of that body.

3.1.92 **COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council will be kept in a safe place in the custody of the ~~City~~council Solicitor. 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 ~~City Solicitor~~ Council Solicitor should be sealed. The Common Seal will be attested by the signature (including the facsimile of the signature by whatever process reproduced) of the ~~City Solicitor~~ Council Solicitor or some other person authorised by him/her. A record of the attestation will be kept in a book to be provided for that purpose of every deed and other documents which the common seal has been affixed.



Annex 1

**Protocol for Conferring the Title of Honorary Alderman or Alderwoman**

**1. Procedure**

- a) The title of Honorary Alderman/woman will only be conferred and entered into the Roll of Aldermen/women in accordance with the Council's agreed Protocol..
- b) Any name put forward must be proposed in writing by a serving Member of the Council and seconded in writing by at least one other serving Member of the Council. Nominations must be submitted to both the Chief Executive and the Lord Mayor.
- c) Nominations will be considered and the title of Honorary Alderman or Alderwoman will be conferred at a specially convened meeting of the Council. The title will be conferred by a resolution passed by not less than two thirds of members present and voting.
- d) Nominations may, in addition to this, be considered at a prior ordinary Council meeting, and the nomination approved in principle by a resolution comprising a majority vote. If nominations are considered at an ordinary meeting, it is proposed that the specially convened meeting may be held immediately after this ordinary meeting or at a future meeting, subject to the appropriate notice of the special meeting having been given.

**2. Qualifications Required for Enrolment**

- a) The Council may, in accordance with Section 249 of the Local Government Act 1972, and the provisions of this protocol, confer the title of "Honorary Alderman" or "Honorary Alderwoman".
- b) An Honorary Alderman/Alderwoman shall enjoy only those rights or privileges conferred by Section 249 of the Act and this protocol.
- c) The ~~Executive Director, Resources Director of Customer and Workforce Services~~ shall keep a roll to be called "The Roll of Honorary Aldermen/Alderwomen" of those who have had this title conferred on them
- d) A person shall be deemed eligible to be enrolled as an Honorary Alderman/Alderwoman provided that the person meets the following requirements:
  - is not a serving Member of the Council
  - has served as a Member of the Council for at least 15 years in total (continuously or non-continuously)
  - has given eminent service to the Council during that period.

**3. Method of Enrolment**

- a) No person who has the above qualifications shall be enrolled automatically as an Honorary Alderman/Alderwoman but only in accordance with the procedure set out above.
- b) Formal conferring of the title of Honorary Alderman/Alderwoman shall be by a resolution of the Council passed by not less than two thirds of the Members present and voting thereon at a meeting of the Council specially convened for the purpose with notice of the object.

**4. Withdrawal of Title**

The Council may withdraw the title of Honorary Alderman/Alderwoman and the attached rights and privileges. Such withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefore) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council.

**5. Privileges**

An Honorary Aldermen shall be entitled to the following rights and privileges:

- To enjoy the courtesy title of Honorary Alderman or Alderwoman and to be so addressed.
- To provide a badge or emblem to Honorary Aldermen/Alderwomen, and to wear such badge or emblem on civic occasions.
- To receive a copy of each Council summons and a copy of the Members' Handbook and to be included within the Members' Handbook.
- To receive a framed certificate to commemorate their appointment.
- To enter their name into the "Roll of Honorary Aldermen/Alderwomen".
- To receive invitations to civic and social events to which Members of the Council are invited as determined by the Lord Mayor.
- To walk in civic procession in a position immediately behind serving Members.
- To enjoy such other privileges as the Council may confer upon them from time to time.

## 3.2 **Access to Information Procedure Rules**

### 3.2.1 **Scope**

3.2.1.1 These rules apply to all meetings of the Council, Scrutiny Boards, and committees. They also apply, where indicated, to meetings of the Cabinet or executive decisions made by any Cabinet Member or employee.

3.2.1.2 In these Rules, where any rule applies to Cabinet, it shall also apply to:

- (a) any committee of Cabinet;
- (b) a joint committee where all the members of the joint committee are members of a local authority executive and which is authorised to discharge a function to which an executive decision relates in accordance with the Local Authorities (Arrangements for the Discharge of Functions )(England) Regulations 2012 ;
- (c) a sub committee of a joint committee where all the members are members of a local authority executive and which is authorised to discharge a function to which an executive decision relates in accordance with the Local Authorities (Arrangements for the Discharge of Functions )(England) Regulations 2012 ; and
- (d) an area committee of the Cabinet within the meaning of Section 9E of the Local Government Act 2000."

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

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

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

Members of the public may attend all meetings subject only to any exceptions in this Constitution.

### 3.2.4 **Notice of Meetings and Adjourned and Reconvened Meetings**

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Council House, Earl Street, Coventry ("the designated office") and including the details on the Council's website or, where a meeting is convened at shorter notice, at the time that the meeting is convened.

When a meeting is adjourned and reconvened, there must be at least 5 working days notice of the date of that reconvened meeting.

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Executive Director, Resources ~~Director of Customer and Workforce Services~~ will make each such report available to the public as soon as the report is printed and sent to Councillors. Where a meeting is convened at shorter notice than that set out in 3.2.4, copies of the agenda and reports open to the public will be made available for public inspection when the meeting is convened. At each of these stages the relevant documentation will be included on the Council's website.

### 3.2.6 Supply of Copies

3.2.6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Executive Director, Resources ~~Director of Customer and Workforce Services~~ thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage, copying or other necessary charge for transmission. This information will also be made available on the Council's website.

### 3.2.7 Access to Minutes and Other Documents After the Meeting

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meetings or records of decisions taken, together with reasons, for all meetings of the Cabinet or executive decisions made by any Cabinet Member or employee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.



### 3.2.8 **Background Papers**

#### 3.2.8.1 *List of Background Papers*

When a copy of the whole or part of a report for a meeting is made available for public inspection in accordance with 3.2.5, the proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works

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

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers except where in the opinion of the proper officer to do so would be likely to disclose confidential or exempt information or the advice of a political adviser or assistant.

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council House, Earl Street, Coventry.

*As the Constitution is available to the public and located on the Council's website, these Rules constitute that written summary.*

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

#### 3.2.10.1 *Confidential Information – Requirement to Exclude the Public*

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed to them in breach of the obligation of confidence.

#### 3.2.10.2 *Exempt Information – Discretion to Exclude the Public*

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a

presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act.

3.2.10.3 *Meaning of Confidential Information*

Confidential information means information provided to the Council by a Government Department on terms (however expressed) which forbid the disclosure of the information to the public or information the disclosure of which to the public is prohibited by or under any enactment or by order of the court.

3.2.10.4 *Meaning of Exempt Information*

Exempt information means information falling within the following categories (subject to any condition):

Description of exempt information	Qualification	Notes
	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.	Applies to all categories of otherwise exempt information.
1. Information relating to any individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.	Names, addresses or telephone numbers can identify individuals.  Also consider the Council's Data Protection Act responsibilities.
2. Information which is likely to reveal the identity of an individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.	Names, addresses or telephone numbers can identify individuals.  Also consider the Council's Data Protection Act responsibilities.
3. Information relating	Exempt information if and so	The authority is a

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<p>to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:-</p> <ul style="list-style-type: none"> <li>a) the Companies Act 1985</li> <li>b) the Friendly Societies Act 1974</li> <li>c) the Friendly Societies Act 1992</li> <li>d) the Industrial and Provident Societies Acts 1965 to 2002</li> <li>e) the Building Societies Act 1986</li> <li>f) the Charities Act 1993</li> </ul>	<p>reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined (etc).</p> <p>Financial or business affairs includes contemplated, as well as past or current activities.</p> <p>Registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not fails to be determined (etc).</p> <p>Employee means a person employed under a contract of service.</p> <p>Labour relations matter means:-</p> <ul style="list-style-type: none"> <li>a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which</li> </ul>

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		<p>may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>b) any dispute about a matter falling within paragraph (a) above. (applies to trade disputes relating to office holders as well as employees)</p> <p>Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.</p>	<p>Privilege lies with the "client" which broadly is the Council. Seek the view of the relevant Chief Officer whether they wish to waive privilege.</p>
<p>6. Information which reveals that the authority proposes:-</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.</p>	<p>The authority is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not fails to be determined (etc).</p>

<p>7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information – see note on public interest at end of table.</p>	
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**NOTE:**

**Public Interest**

In each case before information can be exempt the Council must be satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The changes bring the exemptions and access to information into line with those exemptions available under the Freedom of Information Act 2000.

There is no legal definition of what the public interest test is but the following identifies some of the relevant considerations.

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue.
- Facts and analysis behind major policy decisions.
- Knowing reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public interest in public bodies obtaining value for money.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.

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

If the ~~Executive Director, Resources Director of Customer and Workforce Services~~ thinks fit, the Council may exclude access by the public to the whole or any part of a report which in his or her opinion relates to items during which, in accordance with Rule 3.2.10, the meeting is likely not to be open to the public. Such reports will be marked "~~Not for Publication PRIVATE~~" together with the category of information likely to be disclosed. ~~To allow the public access to all public information contained in reports, all private reports must be accompanied by a corresponding public report, unless there are extreme exceptional circumstances. (See 5.4.4.21).~~

### 3.2.12 Application of Rules to the Cabinet and Cabinet Members and Employees

3.2.12.1 Rules 3.2.12 to 3.2.21.5 apply to the Cabinet and, where indicated, to executive decisions taken by individual Cabinet Members and employees. If the Cabinet meets to take a key decision then Rules 3.2.1-3.2.11 must also be complied with unless Rule 3.2.15 (general exception) or Rule 3.2.16 (special urgency) apply.

3.2.12.2 A key decision is as defined in paragraph 2.1.3. of this Constitution as one which is likely to:-

- (a) result in the City Council incurring expenditure, making savings, or receiving income which is/are significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising 2 or more wards or electoral divisions in the area of the City;

By the term "significant" the Council means a decision which:-

- (a) results in expenditure, savings, income, additional funding or virement of over ~~£500,000~~ per £1 million per annum being incurred or achieved and which additionally, in the case of a capital scheme, has not been identified in the "Approved Programme" within the Capital Programme; or
- (b) results in an outcome which will have a marked effect on communities living or working in an area comprising 2 or more wards.

Any decision to implement or take forward an earlier key decision will be deemed not to be a key decision.

This requirement does not include meetings held solely to brief Councillors.

**3.2.13 Procedure Before Taking Key Decisions**

Subject to Rule 3.2.15 (general exception) and Rule 3.2.16 (special urgency), a key decision may not be taken unless:

- (a) a document containing information as set out in Rule 3.2.14 has been published in connection with the matter in question and made available for inspection by the public both at the Council offices and on the Council's website ; and
- (b) at least 28 clear days have elapsed since the publication of the document .

**3.2.14 Contents of the Key Decision Document**

3.2.14.1 The document referred to in Rule 3.2.13 will contain the following information:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is a Cabinet Member or employee, that person's name and title and where the decision maker is the Cabinet or a Cabinet committee, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

3.2.14.2 Where, in relation to any matter—

- (a) the public may be excluded from the Cabinet meeting at which the matter is to be discussed; or
- (b) documents relating to a decision taken by a Cabinet Member or employee need not be disclosed to the public

the document referred to in Rule 3.2.13 will include particulars of the matter but may not contain any confidential information or exempt information, or particulars of the advice of a political adviser or assistant.

### 3.2.15 General Exception for Key Decisions

3.2.15.1 Where it is impracticable to include a matter which is likely to be a key decision in the document referred to in Rule 3.2.13, then subject to Rule 3.2.16 (special urgency), the decision may still be taken if:

- (a) the ~~Executive Director, Resources Director of Customer and Workforce Services~~ has informed the Chair of the relevant Scrutiny Board by notice in writing of the matter to which the decision is to be made, or, if there is no such person, each member of the relevant Scrutiny Board
- (b) the ~~Executive Director, Resources Director of Customer and Workforce Services~~ has made a copy of that notice available to the public at the offices of the Council and published it on the Council's website; and
- (c) at least 5 clear working days have elapsed following the day on which the ~~Executive Director, Resources Director of Customer and Workforce Services~~ complied with (b) and (c).

3.2.15.2 As soon as reasonably practicable after the ~~Executive Director, Resources Director of Customer and Workforce Services~~ has complied with Rule 3.2.15.1, he or she must make available at the offices of the Council and publish on the Council's website a notice setting out the reasons why compliance with Rule 3.2.13 is impracticable.

3.2.15.3 Where such a decision is taken by the Cabinet collectively, it must be taken in public.

### 3.2.16 Special Urgency for Key Decisions

3.2.16.1 If by virtue of the date by which a decision must be taken, Rule 3.2.15 (general exception) cannot be followed, then the decision can only be taken if the decision maker has obtained the agreement of the Chair of the relevant Scrutiny Board that the making of the decision is urgent and cannot reasonably be deferred.

3.2.16.2 Where there is no Chair of the relevant Scrutiny Board or the Chair cannot act, the agreement of the Lord Mayor must be obtained. Where there is no Chair of the Scrutiny Board or Lord Mayor, the agreement of the Deputy Lord Mayor must be obtained.



3.2.16.3 As soon as reasonably practicable after the decision maker has obtained agreement under this Rule that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at the offices of the Council and publish on the Council's website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

**3.2.17 Report to Council**

**3.2.17.1 When a Scrutiny Board can require a report**

If a Scrutiny Board thinks that a key decision has been taken which was not:

- (a) included in the document referred to in Rule 3.2.13 ; or
- (b) the subject of the general exception procedure under Rule 3.2.15 ; or
- (c) the subject of the special urgency procedure under Rule 3.2.16;

the Board may require the Cabinet to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the Board, but is also delegated to the Chief Executive, who will require such a report on behalf of any Scrutiny Board when so requested by the Chair or any 5 members of that Scrutiny Board. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Board

**3.2.17.2 Cabinet Report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Scrutiny Board, then the report may be submitted to the next meeting after that. The report to Council will set out particulars of the decision, the individual or body taking the decision, and if the Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

**3.2.17.3 Reports on Special Urgency Decisions on Key Decisions**

The Leader will submit to the Council annually at the first ordinary meeting of the Council in each municipal year, a report on any key decisions taken in the circumstances set out in Rule 3.2.16 (special urgency) in the period since the last report was submitted. The report will include particulars of each decision so taken and a summary of the matters in respect of which those decisions were taken.

**3.2.18. Procedures Prior to Private Meetings of Cabinet**

3.2.18.1 Where the Cabinet intends to hold all or any part of a meeting in private, it will make available for public inspection at the Council offices a notice of its intention to hold the meeting in private at least 28 clear days before the date of the meeting. The notice will also be published on the Council's website and will include a statement of the reasons for the meeting to be held in private.

3.2.18.2 At least 5 clear days before a private meeting, the Cabinet will make available for public inspection at the Council offices a further notice of its intention to hold the meeting in private. The notice will also be published on the Council's website and will include:

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received as to why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

3.2.18.3 Where the date by which a meeting must be held makes compliance with Rule 3.2.18.1 or 3.2.18.2 impracticable, the meeting will only be held in private if the Chair of the relevant Scrutiny Board agrees that the meeting is urgent and cannot reasonably be deferred. Where there is no Chair of the relevant Scrutiny Board or he or she is unable to act, the agreement of the Lord Mayor will be sought and where there is no Lord Mayor, the agreement of the Deputy Lord Mayor will be sought.

3.2.18.4 As soon as reasonably practicable after agreement has been obtained under Rule 3.2.18.3 to hold a private meeting, the Cabinet will make available for public inspection at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred. The notice will also be published on the Council's website.

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

**3.2.19 Record of Decisions**

3.2.19.1 After any formal meeting of the Cabinet, the ~~Director of Customer and Workforce Services~~Executive Director, Resources or, where no employee was present, the person presiding at the meeting, will produce a record or minute of every decision taken at that meetings as soon as reasonably practicable. The record will include—

- (a) a record of the decision and the date it was made;
- (b) a statement of the reasons for each decision and any alternative options considered and rejected at that meeting;

- (c) a record of any conflict of interest relating to the matter decided which is declared by any member and a note of any dispensation granted in respect of that conflict of interest by the head of paid service.

The provisions of Rules 3.2.7 and 3.2.8 (access to documents and background papers after meetings) will also apply to the making of decisions by an individual Cabinet member. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

3.2.19.2 As soon as reasonably practicable after an individual Cabinet Member or an employee has made an executive decision, the Cabinet Member will produce or will instruct the ~~Director of Customer and Workforce Services~~ Executive Director, Resources to produce, and the employee will produce a written statement of that decision. The statement will include—

- (a) a record of the decision and the date it was made;
- (b) a statement of the reasons for each decision and any alternative options considered and rejected by the Cabinet Member or employee when making the decision ;
- (c) a record of any conflict of interest relating to the matter decided which is declared by any member who is consulted by the Cabinet Members or employee and a note of any dispensation granted in respect of that conflict of interest by the head of paid service.

3.2.20 **Additional Rights of Access to Documents for Members of Overview and Scrutiny Boards and Scrutiny Co-ordination Committee**

3.2.20.1 *Rights to Copies*

Subject to Rule 3.2.20.3 below, a member of a Scrutiny Board (including a member of any Sub-group) or of Scrutiny and Co-ordination Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or Cabinet Member and which contains material relating to:

- (a) any business that has been transacted at a meeting of the Cabinet; or
- (b) any decision that has been taken by an individual Cabinet Member in accordance with executive arrangements ;
- (c) any decision that has been taken by an employee in accordance with executive arrangements

3.2.20.2 Any documents requested must be provided as soon as is practicable and in any case no later than 10 clear days after receipt of the request.

3.2.20.3 *Limit of Rights*

A member of a Scrutiny Board will not:

- (a) have an automatic right to any document that is in draft form;
- (b) be entitled to any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or to any review contained in any programme of work of such a Board or Sub- Group ; or
- (c) be entitled to a copy of a document or part of a document containing the advice of a political adviser or assistant (if any).

3.2.21 **Additional Rights of Access for Members**

3.2.21.1 *Material Relating to Business to be Transacted*

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or Cabinet Member and contains material relating to any business to be transacted at a public meeting unless either (a) or (b) below applies.

- (a) it appears to the proper officer that it discloses exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it appears to the proper officer that it discloses exempt information falling within paragraph 3 of the categories of exempt information but only to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (c) it appears to the proper officer that it contains the advice of a political adviser or assistant .

3.2.21.2 Any document which is required by Rule 3.2.21.1 to be available for inspection by a member will be available for inspection for at least 5 clear days before the meeting except that—

- (a) where the meeting is convened at shorter notice, the document will be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, the document will be available for inspection when the item is added to the agenda.

3.2.21.3 *Material Relating to Previous Business*

Subject to Rule 3.2.21.4, all members will be entitled to inspect any document which is in the possession or control of the Cabinet and contains material relating to —

~~i.(a)~~ any business transacted at a private meeting;

~~ii.(b)~~ any decision made by an individual Cabinet Member under executive arrangements ; or

~~iii.(c)~~ any decision made by an employee under executive arrangements

3.2.21.4 Members shall not be entitled to inspect documents referred to in Rule 3.2.21.3 where—

- (a) it appears to the proper officer that it discloses exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it appears to the proper officer that it discloses exempt information falling within paragraph 3 of the categories of exempt information but only to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract;
- (c) it appears to the proper officer that it contains the advice of a political adviser or assistant .

3.2.21.5 Where members are entitled to inspect any document in accordance with Rule 3.2.21.3, the document will be available for inspection:

~~(b)(a)~~ when the meeting concludes; or

~~(e)(b)~~ where an executive decision is made by an individual Cabinet Member or employee, immediately after the decision has been made; and

~~(d)(c)~~ in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

3.2.21.6 **Nature of Rights**

These rights of a member are additional to any other right s/he may have.

### 3.3 **Budget and Policy Framework Procedure Rules**

#### 3.3.1 **The Framework for Executive Decisions**

The full Council will be responsible for the adoption of the Budget & Policy Framework as set out in [Part 2 paragraphs 2.3.2–Article 3, and 2.3.3](#). Once the Framework is in place it will be the responsibility of the Cabinet to implement it.

#### 3.3.2 **Process for Developing the Framework**

3.3.2.1 The Cabinet will publicise by including in the Key Decision Document referred to in paragraph 3.2.13 a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget & Policy Framework, and its arrangement for consultation after publication of these initial proposals. The consultation period shall in each instance be no less than 8 weeks. A copy of the Key Decision Document will also be sent to the Chairs of the Scrutiny Boards so that they are aware that proposals are to be made.

3.3.2.2 At the end of the consultation period, Cabinet will then draw up firm proposals having regard to the responses it has received to the consultation. If a Scrutiny Board wishes to respond to the Cabinet in that consultation process then it may do so. As the Scrutiny Boards have responsibility for fixing their own work programme, it is open to the Scrutiny Board to investigate, research or report in detail the policy recommendations before the end of the consultation period. The Cabinet will consider responses from the Scrutiny Boards and take those into account in drawing up firm proposals for submission to the Council and the Cabinet report to Council will reflect the comments made by consultees and the Cabinet's response.

3.3.2.3 Once the Cabinet has approved the final proposals the [Executive Director, Resources Director of Customer and Workforce Services](#) will refer them at the earliest opportunity to the full Council for decision.

3.3.2.4 In reaching a decision the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration or, in principle, substitute its own proposals in their place.

3.3.2.5 If it accepts the recommendations of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise it may only make an "in principle" decision. In either case the decision would be made on the basis of a simple majority of votes cast at the meeting.

3.3.2.6 A copy of the Council decision shall be given to the Leader.

3.3.2.7 An "in principle" decision will automatically become effective 7 days from the date of the Council decision unless the Leader informs the [Executive Director, Resources Director of Customer and Workforce Services](#) in writing within 5 days of the decision that s/he objects to the decision becoming effective and provides reasons why.

### 3.3.3 Conflict Resolution Mechanism

3.3.3.1 Where the Leader has objected, on behalf of the Cabinet, to an in principle decision of the Council, under paragraph 3.3.2.7 above, the ~~Executive Director, Resources Director of Customer and Workforce Services~~ will within 7 days call a meeting of the full Council. This meeting should take place as soon as possible after the expiry of the 7 day period and, in any event, within 28 days of the original decision. At that meeting the Council will be required to reconsider its decisions together with any further information or documentation which may be submitted by the Leader. The Council may:-

- (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
- (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority of votes cast at the meeting.

3.3.3.2 The decision shall then be made public and shall be implemented immediately.

### 3.3.4 Virements and Policy Changes

In approving the Budget & Policy Framework the Council will also specify the extent of the virement within the budget and the degree of in year changes to the Policy Framework which may be undertaken by the Cabinet in accordance with paragraphs 3.3.5 and 3.3.6 of these Rules and in accordance with any thresholds established by the Financial Procedure Rules. Any other changes to the Policy and Budgetary Framework are reserved to full Council.

### 3.3.5 Decisions Outside the Budget & Policy Framework

3.3.5.1 Subject to the provisions of paragraph 3.3.4 (Virements and Policy Changes) the Cabinet, Cabinet Members, and officers discharging executive functions may only make decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework or contrary to and not wholly in accordance with the budget approved by full Council then that decision may only be taken by the Council subject to paragraph 3.3.6 below.

3.3.5.2 If the Cabinet, Cabinet Members, or officers discharging executive functions wish to make such a decision then they must take advice from the Monitoring Officer and/or the ~~Executive Director, Resources Director of Finance and Legal Services~~ as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or Policy Framework then the decision must be referred by that body or officer to full Council for decision, unless the decision is a matter of urgency, in which case the provisions of paragraph 3.3.6 (Urgent Decisions outside the Budget & Policy Framework) shall apply.

### 3.3.6 Urgent Decisions Outside the Budget & Policy Framework

3.3.6.1 The Cabinet, or a Cabinet Member or officer discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly

in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:-

- (i) if it is not practicable to convene a quorate meeting of the full Council; and
- (ii) the Chair of the Scrutiny Co-ordination Committee, or Deputy, agrees that the decision is a matter of urgency.

3.3.6.2 The reasons why it is not practicable to convene a quorate meeting of full Council and the Chair of the Scrutiny Co-ordination Committee~~s~~, or his/her Deputy~~s~~, must be noted on the record of the decision. In the absence of the Chair of the Scrutiny Co-ordination Committee and his/her Deputy then the consent of the Lord Mayor, or in his/her absence, the Deputy Lord Mayor, shall be sufficient.

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

### ~~3.3.7 Viirements~~

~~3.3.7.1 For revenue budget viirements (including contributions to/from reserves), the following delegated scheme applies:~~

- ~~(a) All viirements up to £250,000 approval by relevant Director(s) (including the Director of Finance and Legal Services for viirements to/from employee budgets)~~
- ~~(b) Viirements over £250,000 but below £500,000 within the same portfolio, Cabinet Member approval; between portfolios, the appropriate Cabinet Members, approval~~
- ~~(c) All viirements over £500,000 but below £1 million Cabinet approval~~
- ~~(d) All viirements over £1 million full Council approval~~
- ~~(e) All technical adjustments Each year there are a number of technical adjustments made to the Council's budget, for example asset charges. A feature of these adjustments is that there is no overall impact on the Council's "bottom-line" and they are internal transfers, involving no cash transactions with third parties. In addition, these transfers do not increase the budget over which individual budget holders have spending discretion. Such technical adjustments can be approved by officers, even though they are not wholly in accordance with the budget approved by Council.~~

~~**N.B.** The above scheme does not apply to Schools, for which separate financial rules are set out in the financial regulations of the Fair Funding scheme of delegation.~~

~~3.3.7.2 For capital programme viirements, the following delegated scheme applies:~~

~~Approval levels for individual schemes not in the Capital Programme which are added during the year are subject to the identification of additional resources to fund the~~



~~scheme (eg grant, supported borrowing approval, capital receipts etc.) or a virement of resources from existing schemes and are as follows:~~

- ~~(a) Schemes up to £0.25m can be approved by the Capital Working Group, subject to reporting to Management Board at the next available opportunity.~~
- ~~(b) Schemes between £0.25m and £0.5m can be approved by the Management Board (supported by the Director of Finance and Legal Services and relevant Service Director).~~
- ~~(c) Schemes between £0.5m and £2.5m require Cabinet approval.~~
- ~~(d) Schemes over £2.5m require full Council approval.~~

~~**Any proposed schemes which are unfunded require the approval of the full Council.**~~

### 3.3.7 In Year Changes to Policy Framework

3.3.7.1 The responsibility for agreeing the Budget & Policy Framework lies with the Council and decisions by the Cabinet, Cabinet Member or officers must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:-

- (a) which will result in the closure or discontinuance or reduction of a service or part of a service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a Policy which would normally be agreed annually by the Council following consultation but where the existing Policy document is silent on the matter under consideration;
- (d) which relate to Policy in relation to schools where the majority of School Governing Bodies agree with the proposed change;
- (e) where the Chair of the Scrutiny Co-ordination Committee or in his/her absence their Deputy, agrees that the proposed change is sufficiently minor in the context of the Policy concerned and is an appropriate change in the circumstances;
- (f) where, when approving the Framework, the Council gave specific authority to the Cabinet to make in-year changes.

### 3.3.8 Call-in of Decisions Outside the Budget or Policy Framework

3.3.8.1 Where a Scrutiny Board is of the opinion that an Executive decision is, or if made, would be contrary to the Policy Framework or not wholly in accordance with the Council's budget then it shall seek advice from the Executive Director, Resources Director of Finance and Legal Services.

3.3.8.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or the Chief Finance Officer's report shall be to the Executive with a

copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Board if the Monitoring Officer or the Chief Finance Officer conclude the decision was not a departure.

| 3.3.8.3 If the decision has yet to be made, or has been made but not yet implemented, the advice from the appropriate officer is that the decision is, or would be, contrary to the Policy Framework or not wholly in accordance with the budget, the Scrutiny Board may refer the matter to Council. In such cases, no further action shall be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 28 days of the request by the Scrutiny Board. At the meeting it will receive the report of the decision or proposals and the advice of the officer. The Council may either:-

- (a) endorse a decision or proposal of the Executive decision taker as falling within the existing Budget & Policy Framework. In this case no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (b) amend the Council's Financial Procedure Rules, Financial Regulations or Policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case no further action is required save the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (c) where the Council accepts the decision or proposal is contrary to the Policy Framework or not wholly in accordance with the budget, and does not amend the existing Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

*Part 3.3 – Budget and Policy Procedure Rules*

### 3.4 **Cabinet Procedure Rules**

#### 3.4.1 **How Does the Cabinet Operate?**

##### 3.4.1.1 Who may make Cabinet Decisions:-

Under the arrangement for the discharge of functions set out in the executive arrangements adopted by the Council (Part 2 Schedule 1), the Leader may decide how such functions are to be exercised. S/he may provide for the executive functions to be discharged by:-

- (a) the Cabinet as a whole
- (b) an individual Member of the Cabinet
- (c) an Employee
- (d) joint arrangements; or
- (e) another local authority

##### 3.4.1.2 An Advisory Panel or Panels may be established to provide advice and guidance to the Cabinet or an individual Cabinet Member.

##### 3.4.1.3 A Deputy Cabinet Member may be nominated by a Cabinet Member to attend a meeting of the Cabinet if he/she is not able to attend. Deputy Cabinet Members may attend and speak at meetings of the Cabinet, but cannot vote and are not members of the Executive.

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

##### 3.4.2.1 At its annual meeting the Council will receive a report from the Leader on the delegations of executive functions made by him/her for inclusion on the Council's scheme of delegation at Part 2 to this Constitution. The scheme of delegation will contain the following information about Cabinet functions in relation to the coming year.

- (a) The names, addresses and wards of the people appointed to the Cabinet
- (b) The extent of any authority delegated to Cabinet Member individually including details of the limitation of their authority
- (c) The nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- (d) The nature and extent of any delegation to employees with details of any limitation on that delegation, and the title of the employee to whom the delegation is made.

##### 3.4.2.2 The Leader is also able to decide whether to delegate Cabinet functions, and s/he may amend the scheme of delegation relating to Cabinet functions at any time during the year. To do so, the Leader must give written notice to the Executive Director, Resources Director of Customer and Workforce Services and Council.

**3.4.3 Sub-delegation of Cabinet Functions**

- (a) Where the Cabinet or an individual Cabinet Member is responsible for a Cabinet function, they may delegate further to joint arrangements or an employee.
- (b) Unless the Council directs otherwise, the Cabinet may delegate further to an employee.
- (c) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

**3.4.4 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Elected and Co-opted Members in Part 4 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Elected and Co-opted Members in Part 4 of this Constitution.
- (c) If the exercise of a Cabinet function has been delegated to an individual Cabinet Member or an employee 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 Elected and Co-opted Members in Part 4 of this Constitution.

**3.4.5 Cabinet Meetings – When And Where?**

3.4.5.1 The Cabinet and Cabinet Members will meet at the times specified in the Council's Calendar of Meetings.

3.4.5.2 The Cabinet and Cabinet Members will meet at the Council's main offices or another location to be agreed by the Leader as specified on the relevant agenda.

3.4.5.3 The date and time of any meeting may be altered or the meeting postponed or cancelled or additional meetings arranged by the Executive Director, Resources ~~Director of Customer and Workforce Services~~ in consultation with the Leader (for Cabinet) or relevant Cabinet Member.

**3.4.6 Public or Private Meetings of the Cabinet**

The Cabinet or Cabinet Member meetings will be open to the public, unless the nature of the business to be transacted requires the meeting to take place in private in accordance with the Access to Information Procedure Rules detailed in Part 3.2.

**3.4.7 Quorum**

The quorum for a meeting of the Cabinet will be 5.

### 3.4.8 How are Decisions to be Taken by the Cabinet

3.4.8.1 Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 3 ~~of the Constitution~~.

3.4.8.2 All decisions of the Cabinet and Cabinet Members will be open to the Call-In arrangements and subject to the call-in criteria.

(The Call-In procedure is referred to in Paragraphs [3.5.17](#) and [3.5.18](#)).

3.4.8.3 (a) In any case where the Cabinet or Cabinet Member determines an urgent matter, other than a matter which is a Key Decision as defined in paragraph 2.1.3, the recorded decision will include the reason for the urgency and the Cabinet or Cabinet Member may be required by Scrutiny to justify why the matter was considered as urgent. Matters determined on this basis are not subject to the Call-In arrangements. In such circumstances, the Chair of the Scrutiny Co-ordination Committee must be invited to attend Meetings where urgent decisions are taken to determine if the matter is urgent. If the Chair of the Scrutiny Co-ordination Committee is unable to attend, then s/he can appoint a nominee to attend the meeting. However, no decisions can be made unless the Chair of the Scrutiny Co-ordination Committee or his/her nominee is present at the meeting at which the urgent item is considered. Any reports on which urgent decisions have been made are to be referred to Scrutiny Co-ordination Committee for them to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

(b) Where an urgent matter is also a Key Decision it will be determined in accordance with the procedures set out in paragraphs 3.2.15 and 3.2.16.

3.4.8.4 The ~~Executive Director, Resources Director of Customer and Workforce Services~~ or her/his representative will be present ~~at any Meeting~~ where a Cabinet Member responsible for a portfolio makes a formal decision, to advise and record that decision and, if the ~~Executive Director, Resources Director of Customer and Workforce Services~~ or her/his representative is not present, no decision will be deemed to have been taken.

3.4.8.5 In the absence of a Cabinet Member responsible for a portfolio, a decision in respect of a function under that portfolio may not be taken by another Cabinet Member unless he or she has been reassigned that function by the Leader of the City Council, or in her/his absence, the Deputy Leader of the City Council or the Leader takes the decision him/her-self. Unless this is the case, the decision will be referred to the Cabinet.

3.4.8.6 In the case of a Cabinet Member responsible for a portfolio declaring an interest in a matter and being unable to act, that matter should be referred to the Cabinet for their consideration.

3.4.8.7 Advisory Panels may be established for each portfolio and for the Cabinet to provide advice and guidance to the Cabinet Member responsible for that portfolio on the development of policy. Advisory Panel meetings will not generally be public meetings although Cabinet or Cabinet Member may invite any person with particular expertise to an Advisory Panel meeting.

### 3.4.9 **How are Cabinet Meetings Conducted?**

#### 3.4.9.1 *Who Presides?*

At any Cabinet meeting, if the Leader is present s/he will preside. In his/her absence if the Deputy Leader is present s/he will preside. In the absence of the Leader ~~or~~and Deputy Leader/his/her the Leader's nominee will preside. In all absence of any nominee, the Cabinet will elect a member of the Cabinet to preside.

#### 3.4.9.2 *Who May Attend?*

These details are set out in the Access to Information Procedure Rules in Part 3 of this Constitution.

#### 3.4.9.3 *What Business?*

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

- (a) Consideration of the minutes of the last meeting
- (b) Declarations of interest, if any
- (c) Matters referred to the Cabinet (whether by Scrutiny Board or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 3 of this Constitution.
- (d) Consideration of reports from Scrutiny Boards, and
- (e) Matters set out in the agenda for the meeting, and which will indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 3 of this Constitution.

#### 3.4.9.4 *Consultation*

All reports to the Cabinet from any Member of the Cabinet or an employee on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Board, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### 3.4.9.5 *Who can put Items on the Cabinet Agenda?*

- (a) The Leader may put on the agenda of any Cabinet meeting any matter which s/he wishes, whether or not authority has been delegated to the Cabinet, a Cabinet Committee or any Member or employee in respect of that matter. The Executive Director, Resources ~~Director of Customer and Workforce Services~~ will comply with the Leader's requests in that respect.
- (b) In the absence of the Leader, the Deputy Leader may exercise the function at (a) above.
- (c) Any Member of the Cabinet may require the Executive Director, Resources ~~Director of Customer and Workforce Services~~ to make sure that any appropriate

*Part 3.4 – Cabinet Procedure Rules*

item is placed on the agenda of the next available meeting of the Cabinet for consideration. If s/he receives such a request the Executive Director, Resources ~~Director of Customer and Workforce Services~~ will comply.

- (d) The Executive Director, Resources ~~Director of Customer and Workforce Services~~ will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Board or the full Council has resolved that an item be considered by the Cabinet.
- (e) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Executive Director, Resources ~~Director of Customer and Workforce Services~~ to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

**3.4.10 Referrals to Cabinet/Cabinet Members by Scrutiny**

Scrutiny Boards can refer items to Cabinet/Cabinet Members with the agreement of the Chair of the Cabinet or the appropriate Cabinet Member. However, this does not prejudice consideration of call-ins as detailed in 3.5.17 and 3.5.18 and Scrutiny's right to make a recommendation to the Cabinet or Cabinet Member to amend a decision.



*Part 3.4 – Cabinet Procedure Rules*

### 3.5 **Scrutiny Procedure Rules**

#### **SCRUTINY ARRANGEMENTS**

##### 3.5.1 **Constitution of Scrutiny Boards and Scrutiny Co-ordination Committee**

The Council will have Scrutiny Boards ~~as set out in Article 6~~ with ~~the~~ functions as set out in Part 2 and will appoint to them as it considers appropriate from time to time. Scrutiny Boards may appoint time limited sub-groups to assist their work.

There will also be a Scrutiny Co-ordination Committee whose main functions will be to co-ordinate the work of the Scrutiny Boards and will be responsible for the consideration of call-ins and undertake review of the way the Council deals with petitions ~~under S.17 of the Local Democracy, Economic Development and Construction Act 2009.~~

##### ~~4.5.2~~ **~~Terms of Reference – Scrutiny Boards~~**

~~4.5.2.1~~ ~~Scrutiny Boards will have the power to investigate any matters they consider relevant to their work area and to make recommendations to the Council, the Cabinet, any Cabinet Member or any other Committee of the Council as they see fit.~~

~~The terms of reference of each Scrutiny Board will be:-~~

- ~~(i) To perform all overview and scrutiny functions on behalf of the Council in relation to the area of work allocated to that Scrutiny Board;~~
- ~~(ii) To appoint such time limited sub-groups as it considers appropriate to help fulfil those overview and scrutiny functions;~~
- ~~(iii) Taking into account the views of the Scrutiny Co-ordination Committee, to approve a work programme for the Scrutiny Board, including the programme of work of any sub-group it appoints so as to ensure that time is effectively and efficiently utilised;~~
- ~~(iv) To receive requests from the Cabinet, any Cabinet Members, the Scrutiny Co-ordination Committee and/or the full Council to undertake investigations or other work and to respond accordingly;~~
- ~~(v) To review proposals from the Cabinet in relation to the Budget and Policy Framework;~~
- ~~(vi) To consider Performance Management information;~~
- ~~(vii) To scrutinise Cabinet and any Cabinet Member decisions and the activities of relevant external organisations;~~
- ~~(viii) To consider reports back by Members and/or employees on their attendance at conferences;~~
- ~~(ix) To consider petitions referred to it by the Cabinet or any Cabinet Member.~~
- ~~(x) To refer any matter that potentially also falls within the remit of another Scrutiny Board to Scrutiny Co-ordination Committee for a decision in accordance with paragraph 4.5.3.5.2~~

##### ~~4.5.3.5.2~~ **~~Frequency of Meetings of Scrutiny Boards and Scrutiny Co-ordination Committee~~**

At its annual meeting, the Council will determine a schedule of dates of meetings for the period up to the next annual meeting.

Additional meetings will be convened by the ~~Executive Director, Resources~~ ~~Director of Customer and Workforce Services~~ after consultation with the Chair of the relevant Scrutiny Board or Scrutiny Co-ordination Committee or, in her/his absence, the Deputy Chair ~~of Scrutiny Co-ordination Committee~~.

The ~~Director of Customer and Workforce Services~~, ~~Executive Director, Resources~~ with the agreement of the Chair, or in her/his absence the Deputy Chair, ~~of Scrutiny Co-ordination Committee~~ may alter, cancel/postpone or bring forward a meeting.

If at least 3 members of a Scrutiny Board or of the Scrutiny Co-ordination Committee notify the ~~Executive Director, Resources~~ ~~Director of Customer and Workforce Services~~ in writing that they wish a meeting to be called, the ~~Executive Director, Resources~~ ~~Director of Customer and Workforce Services~~ will do so as soon as possible, and in any event within 15 working days, the date and time being determined in consultation with the relevant Chair (or in her/his absence the Deputy Chair ~~of Scrutiny Co-ordination Committee~~.) Such a notification must specify the business to be dealt with and must contain sufficient information to enable Members to be acquainted with the issues. Where such a special meeting is summoned, the agenda will set out the business to be considered at that meeting.

### 3.5.3 ~~4.5.8~~ **Quorum for Scrutiny Boards and Scrutiny Co-ordination Committee**

~~4.5.8.1~~ The Quorum for Scrutiny Boards will be four elected Members.

~~4.5.8.2~~ The Quorum for the Scrutiny Co-ordination Committee will be three elected Members.

### ~~4.5.9~~ **Substitute Members for Scrutiny Boards and Scrutiny Co-ordination Committee**

~~Any elected Member of a Scrutiny Board or the Scrutiny Co-ordination Committee will be entitled to nominate another elected member (except any Cabinet Member) to substitute for her/him at a meeting or part of a meeting of a Scrutiny Board or Scrutiny Co-ordination Committee, provided that notice of the nomination of that substitution is given to the Director of Customer and Workforce Services at least one hour in advance of the meeting.~~

### ~~4.5.10~~ **Chairing Meetings of Scrutiny Boards, Scrutiny Co-ordination Committee and Sub-Groups**

~~4.5.10.1~~ Chairs and Deputy Chairs of the Scrutiny Boards and the Scrutiny Co-ordination Committee will be appointed by the Council from amongst the Members appointed to these bodies.

~~Chairs of Sub-Groups will be appointed by the Scrutiny Board which established the Sub-Group from amongst the members of that Sub-Group, unless the appointment of a chair is delegated by the Scrutiny Board to the Sub-Group. The Chair of any Joint Sub-Group will be appointed by the Scrutiny Co-ordination Committee.~~

### ~~4.5.11~~ **Work Programme and Annual Report**

Each Scrutiny Board will, subject to the views of the Scrutiny Co-ordination Committee, be responsible for setting its own work programme and in doing so it will consult with

relevant Cabinet members and the Strategic Management Board. They will also consider the wishes of those Members of the Scrutiny Board who are not members of the largest political group on the Council.

#### 3.5.4 **Agenda Items of Scrutiny Boards**

3.5.4.1 Any member, whether a member of a Scrutiny Board or not, will be entitled to give notice in writing to the Executive Director, Resources Director of Customer and Workforce Services that s/he wishes an item relevant to the function of that Scrutiny Board to be included on the agenda for the next available meeting of the Scrutiny Board. In the case of a member who is not a member of the Scrutiny Board in question, the item must also not be an excluded matter as defined by law. In all cases, s/he must give full details and reasons for the request. On receipt of such a request, the Executive Director, Resources Director of Customer and Workforce Services will ensure that it is included on the next available agenda, provided it falls within the Scrutiny Board's terms of reference and, where appropriate, is not an excluded matter. The Chair of the Scrutiny Board will decide, at the start of the meeting at which such item is referred, whether it is appropriate for the Board to deal with the items so notified.

3.5.4.2 The Scrutiny Board will also respond, as soon as its work programme permits, to a request from the Council, Cabinet, or any Cabinet Member or any other Committee of the Council, to review particular areas of Council activity. Where it does so, the Scrutiny Board will report its findings and any recommendations back to the Council, the Cabinet or any Cabinet Member or the relevant Committee, as it deems appropriate.

3.5.4.3 In the event of any dispute or disagreement about whether an item should be included on an agenda for a Scrutiny Board the Chief Executive or in her/his absence the Executive Director, Resources Director of Customer and Workforce Services will arbitrate.

### **POLICY REVIEW AND DEVELOPMENT**

#### 3.5.5 **Role of Scrutiny Boards in Relation to Budget and Policy Framework**

The role of the Scrutiny Boards in relation to the development of the Council's budget and policy framework will be as set out in the Budget and Policy Framework Procedure Rules.

#### 3.5.6 **Role of Scrutiny Boards in Relation to Other Matters**

In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Boards may make proposals to the Cabinet or any Cabinet Member for developments in so far as they relate to matters in their Terms of Reference.

### 3.5.7 Further Role of Scrutiny Boards in Relation to Policy Development

- 3.5.7.1 Scrutiny Boards may hold enquiries and investigate the available options for future directions in Policy Development and may appoint advisors and assessors to assist them in this process.
- 3.5.7.2 Subject to budget availability, they may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.
- 3.5.7.3 They may pay advisors, assessors or witnesses any reasonable fee and expenses within the available budget.

### REPORTS FROM SCRUTINY BOARDS

#### 3.5.8 Preparation of Reports

- 3.5.8.1 As soon as it has formed recommendations or proposals for development, a Scrutiny Board will prepare a full report and submit it to the Executive Director, Resources ~~Director of Customer and Workforce Services~~ who will arrange for its consideration by the Cabinet or the appropriate Cabinet Member or the City Council.
- 3.5.8.2 If the proposals are consistent with the existing Budget and Policy Framework the Cabinet or Cabinet Member or the City Council will consider the report and take such actions as the Cabinet or Cabinet Member or City Council deem appropriate.
- 3.5.8.3 If the recommendation concerns a departure from or a change to the agreed Budget and Policy Framework, the Cabinet will consider the report and refer it to full Council with such recommendations as the Cabinet deem appropriate.

#### 3.5.9 Minority Reports

- 3.5.9.1 If a Scrutiny Board cannot agree one single final report to the Cabinet or Cabinet Member on any matter, no more than one minority report may be prepared and submitted to the Cabinet or Cabinet Member. Any minority report so submitted must be supported by at least two Councillors who are members of the relevant Scrutiny Board.
- 3.5.9.2 Any minority report so submitted will be appended to the report of the Scrutiny Board to the Cabinet in such a manner that makes it clear that there is a minority view on the subject matter of the report and indicating the nature and substance of that minority view. This will be done notwithstanding disagreement of the Scrutiny Board.

#### 3.5.10 Consideration of Scrutiny Reports/Recommendations

- 3.5.10.1 As soon as Scrutiny produces a report/recommendation on any matter which is the responsibility of the Cabinet or any Cabinet Member which has been considered and approved by Scrutiny and which requires a decision by Cabinet/Cabinet Member it will be included on the agenda of the next available meeting of the Cabinet or Cabinet Member, unless the matter which is the subject of the report is scheduled to be

considered by the Cabinet or Cabinet Member within a period of six weeks from the date the report is approved by Scrutiny. In such cases, the report of Scrutiny will be considered by the Cabinet or Cabinet Member when it considers that matter. In any event, the Cabinet/Cabinet member will consider the report within 2 months of receipt of the report or of a notice from the Scrutiny Board requiring the Cabinet /Cabinet member to consider the report.

3.5.10.2 If the Cabinet or Cabinet Member disagree with the recommendations of Scrutiny, they will inform Scrutiny giving their reasons. In such circumstances, Scrutiny can either accept the Cabinet/Cabinet Member decision or refer the matter back to Cabinet/Cabinet Member for reconsideration giving their reasons. If Cabinet/Cabinet Member still disagree, they will inform Scrutiny giving their reasons. Scrutiny can either accept the Cabinet/Cabinet Member decision or refer the matter to Council for a decision on the dispute. In these circumstances the Council will have before them the views of both Scrutiny and the Cabinet/Cabinet Member.

#### 3.5.11 **Rights of Scrutiny Board Members to Documents**

3.5.11.1 In addition to their rights as Councillors, members of Scrutiny Boards have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure rules in Part 3 of this Constitution.

#### 3.5.12 **Liaison and Communication**

3.5.12.1 To facilitate effective communication, liaison between the Cabinet or Cabinet Member and the Scrutiny Boards may take place depending on the particular matter under consideration.

3.5.12.2 To facilitate the effectiveness of liaison and communication the Scrutiny Co-ordination Committee and Cabinet may meet jointly to agree arrangements and protocols for effective liaison and communication.

### **ATTENDANCE AT SCRUTINY BOARDS**

#### 3.5.13 **Members and Employees Giving Account**

Any Scrutiny Board may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within the Portfolio allocated to the Scrutiny Board. As well as reviewing documentation, in fulfilling the Scrutiny role a Scrutiny Board may require any member of the Cabinet, Deputy Cabinet Members, the Chief Executive and/or any senior employee 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.
- (c) their performance

and it is the duty of those persons to attend.

#### 3.5.14 **Notice of Attendance**

Where any Member or employee is required to attend a Scrutiny Board, the [Executive Director, Resources](#) ~~Director of Customer and Workforce Services~~ will inform the Member or employee of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend and whether any documentation is required to be produced for the Scrutiny Board. Where this will require the production of a report, the Member or employee concerned will be given sufficient notice to allow for preparation of that report.

#### 3.5.15 **Member/Employee Unable to Attend**

If, in exceptional circumstances, a Member or employee is unable to attend on the required date, the Chair of the Scrutiny Board will, either

- (a) in consultation with the Member or employee, arrange an alternative date for attendance.
- (b) agree to consider the item of business in the absence of the Member or employee.

#### 3.5.16 **Attendance by Others**

A Scrutiny Board or Sub-Group may invite people other than those referred to in Rule 3.5.13 to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents or other stakeholders, community representatives, members of minority ethnic communities and Members and Officers in other public sector or partner organisations and may invite such people to attend. However, they are not obliged to attend unless this is specified in legislation.

#### **CALL-IN PROCEDURE**

#### 3.5.17 **Call-in Procedure**

3.5.17.1 In this context call-in means the right for non-Cabinet Members to look at and consider issues decided by the Cabinet or any Cabinet Member subject to the limitations on this right set out in paragraph 3.5.18 below.

3.5.17.2 Information about decisions to be taken by the Cabinet or any Cabinet Member will be issued at least five clear working days before the Cabinet or Cabinet Member meeting. A summary sheet will be communicated to all Members of the Council at the end of each week setting out decisions taken and the deadline for calling items in.

3.5.17.3 Decisions of the Cabinet or Cabinet Member on which information has been issued can be called in by no fewer than three persons comprising Members (or, in respect of Education matters only, Co-opted Members) who are not Cabinet Members. To call-in an item, Members must complete the appropriate form which may be submitted in person, by fax or electronically, or a combination of these, which must include the specific decision being called in, a written reason for the call-in and an indication of whether or not they wish the relevant Cabinet Member(s) to attend Scrutiny Co-ordination Committee when the matter is considered, and submit it to the [Executive](#)

~~Director, Resources Director of Customer and Workforce Services~~ by no later than 9.00 a.m. on the specified date. Any decisions not called in by this deadline will immediately become effective.

- 3.5.17.4 The appropriateness of a call-in under these procedures will be determined by the Chair of the Scrutiny Co-ordination Committee (or in her/his absence, her/his nominee), in accordance with the criteria decided by the Committee, on advice by ~~the Assistant Director (Democratic Services), in conjunction with the Council~~ Solicitor ~~where appropriate~~. The Chair of the Committee will also determine whether the relevant Cabinet Member(s) is required to attend the Scrutiny Co-ordination Committee when the matter is considered, taking into account the wishes of the Members calling in the decision, however, this does not preclude Cabinet Member(s) from attending and speaking if they so wish. At this stage, there is no requirement for any Members who called in a decision to be present. If a call-in is rejected as being inappropriate, the Members who have submitted the call-in will be advised of the decision and the reason for it.
- 3.5.17.5 Once the deadline for calling in items has passed and the appropriateness of call-ins has been determined, the ~~City Solicitor Assistant Director (Democratic Services)~~ will inform all Members of the Council and Co-opted Members of Scrutiny Boards of the items called-in and will arrange for these to be considered at the next appropriate meeting of the Scrutiny Co-ordination Committee. The agenda for that meeting will show the written reasons given for the call-ins and enclose the relevant documents. The Chair of the relevant Scrutiny Board will be invited to attend the meeting when the call-in is to be considered to ensure that they are kept informed of issues relevant to their Board.
- 3.5.17.6 At least one of the Members who called in a decision must attend and speak at the meeting of the Scrutiny Co-ordination Committee mentioned in 3.5.17.5 (if they are not already a Member of that Committee). If none of the Members attend, the call-in will fail unless the Committee decide that the matter can be referred to a subsequent meeting when at least one Member can attend or that the call-in can be considered in their absence.
- 3.5.17.7 A call-in may only be withdrawn by notification in writing, by fax or electronically from all the Members who requested the call-in, and submitted to the ~~Director of Customer and Workforce Services, Executive Director, Resources~~
- 3.5.17.8 The Scrutiny Co-ordination Committee will consider the decisions called in and will have at its disposal the information which has been submitted to the Cabinet or Cabinet Member, including any advice/recommendations from Advisory Panels. They can require the relevant Cabinet Member(s) and appropriate employee(s) to attend the meeting to answer questions about the issue. If the Scrutiny Co-ordination Committee accepts the original decision by the Cabinet or Cabinet Member it becomes effective. If the Scrutiny Co-ordination Committee makes a recommendation to the Cabinet or Cabinet Member to amend a decision, this will be considered by the Cabinet or Cabinet Member.
- 3.5.17.9 If the Cabinet or Cabinet Member disagree with the recommendation of the Scrutiny Co-ordination Committee to amend a decision they will inform the Scrutiny Co-ordination Committee. In such circumstances, the Scrutiny Co-ordination Committee may refer



the matter to the Council for decision on the dispute. In these circumstances the Council will have before them the views of both the Scrutiny Co-ordination Committee and the Cabinet or Cabinet Member. If the Cabinet or Cabinet Member decides further work needs to be done, they may defer the item for this to be carried out.

- 3.5.17.10 Scrutiny Co-ordination Committee may refer any issue which arises during the consideration of a call in to the appropriate Scrutiny Board for further detailed consideration. Where the call in is referred to an appropriate Scrutiny Board, that Board will follow the procedure detailed in paragraphs 3.5.17.8 and 3.5.17.9 above in relation to accepting the original decision, making recommendations to the Cabinet or Cabinet Member to amend a decision, or, in the case of a dispute, referring the matter to Council for decision.

### 3.5.18 Limitations on Call-in

A call-in will normally be regarded as appropriate **UNLESS**:-

1. ~~it falls within paragraph 4.5.26 of the Scrutiny rules (part 4 of the Constitution) – ie. it~~ relates to:-
  - (a) a matter which is to be determined by the Council.
  - (b) a decision of the Cabinet/Cabinet Member taken as a matter of urgency and the Chair of the Scrutiny Co-ordination Committee (or his/her nominee) had been invited to attend the meeting where the urgent decision had been taken or the Scrutiny Co-ordination Committee has previously agreed the need for urgency.
  - (c) a decision made by an employee exercising delegated authority unless it is a key decision.
  - (d) decisions of the Licensing and Regulatory Committee, the Planning Committee the Appeals and Appointments Panels and the Audit and Procurement Committee
  - (e) ~~decisions of the Planning Committee.~~  
~~decisions of the Appeals and Appointments Panels.~~  
~~decisions of the Audit Committee.~~  
~~[DN: Add “relating to an individual” to (v) (vii) at end.]~~a matter where the associated report has already been considered by the Scrutiny Co-ordination Committee or a Scrutiny Board who have endorsed the recommendations or made recommendations that have been accepted by the Cabinet/Cabinet Member.
2. The call-in form is not completed correctly.
3. The call-in form is received after the specified time.
4. The reason for the call-in is unclear or does not relate directly to the decision specified on the call-in form.
5. The reason for the call-in is a question, the answer to which can be found in the report relating to the decision which is being called in.

### 3.5.19 Call-in - Urgent Decisions

3.5.19.1 Decisions of the Cabinet or any Cabinet Member which are urgent (ie. any delay likely to be caused by the call-in process would prejudice the Council's or the public's interest) will not be subject to call-in.

3.5.19.2 The records of such decisions will reflect the reasons for urgency and state that therefore they are not subject to call-in.

3.5.19.3 The Chair of the Scrutiny Co-ordination Committee, [his](#) or her/~~his nominee~~ [Deputy](#), will be invited to and must attend meetings where urgent decisions are to be taken and will be asked to agree the need for urgency unless the Scrutiny Co-ordination Committee has already given its approval to a decision being taken urgently so that call-in does not apply. [In the absence of the Chair or Deputy then the Lord Mayor or Deputy will be invited to perform this role.](#)

3.5.19.4 Any reports on which urgent decisions have been made are to be reported to Scrutiny Co-ordination Committee for it to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

### 3.5.20 The Party Whip

When a Scrutiny Board considers any matter in respect of which a Member of that Board is subject to a Party Whip, the Member must declare the existence of the Whip, and the nature of it, before the commencement of the Scrutiny Board's consideration of the matter. The declaration, and the details of the Whipping arrangements, will be recorded in the minutes of the meetings.

## MISCELLANEOUS

### 3.5.21 Business of Scrutiny Boards

At each meeting of the Scrutiny Boards the following business will be conducted:-

- (a) Notification of substitutes
- (b) Minutes of the last meeting
- (c) Declarations of interest
- (d) Responses of the Council, Cabinet or any Cabinet Member or other Committees to reports of the Scrutiny Board
- (e) Other business set out on the agenda for the meeting including reports back on attendance at Conferences etc except those relating to the Lord Mayoralty which will be considered by the Scrutiny Co-ordination Committee.

### 3.5.22 Investigations/Reviews

When the Scrutiny Board conducts investigations/reviews (including by means of a Sub-Group) it may ask people to attend to give evidence at meetings, which are to be conducted in accordance with the following principles:-

- (a) The investigation/review will be conducted fairly and all Members of the Scrutiny Board or Sub-Group will be given the opportunity to ask questions of those attending and to contribute and speak.
- (b) Those assisting the Scrutiny Board or Sub-Group to give evidence will be treated with respect and courtesy.
- (c) The investigation/review will be conducted so as to maximise the efficiency and effectiveness of the investigation/review.

### 3.5.23 Report Following Investigations/Reviews

If an investigation/review is carried out by a Scrutiny Board that Scrutiny Board will prepare a report for submission to the Council, Cabinet, Cabinet Member or other Committee as it deems appropriate and will make its report and findings public except when the Information Rules require otherwise.

If an investigation/review is carried out by a Sub-Group, that Sub-Group will prepare a report for submission initially to the Scrutiny Board which appointed it, and will make its report findings public except when the Information Rules require otherwise. The Scrutiny Board will then refer the report to the relevant body.

### 3.5.24 **Outside Bodies – Annual Reports to Scrutiny**

Where the Council nominates more than one representative to an Outside Body, a Lead Member will be nominated to be responsible for co-ordinating a report to the Scrutiny Co-ordination Committee following the annual meeting of the body on the work of the Organisation, the benefits to the City Council of continuing its membership and the added value that the City Council's representatives bring to the Organisation. Where only one representative is appointed then she/he will be the Lead Member. If an organisation does not have an annual meeting, then the Council's Lead Member will report in the third quarter of the year so that the Council can consider the benefits of retaining its representation. The Scrutiny Co-ordination Committee will decide, at the start of each Municipal Year, which outside bodies it wishes to receive reports on.

### 3.5.25 Referrals to Scrutiny by Cabinet/Cabinet Members

With the agreement of the Chair of the appropriate Scrutiny Board/Scrutiny Co-ordination Committee, Cabinet/Cabinet Members can refer items to Scrutiny. However, call-in will still apply to referred items.

NOTE: Reports should not normally be referred to Scrutiny for information.

*Part 3.5 – Scrutiny Procedure Rules*

## 3.6 **Financial Procedure Rules**

### 3.6.1 **Introduction**

~~—The City Council is a very large and complex organisation with an annual turnover in excess of £500 million. It requires robust systems and procedures to ensure that there is public accountability for the use of these resources as well as the appropriate level of probity demanded by the public. The Financial Procedure Rules provide the structure through which the Council's financial affairs are managed and are deemed part of the Coventry City Council's constitution. They set out the approval limits for financial transactions, the detailed responsibilities of the Executive Director, Resources and the framework in which financial systems, processes and requirements are applied.~~

### 3.6.2 **Proper Financial Administration**

~~—The Director of Finance and Legal Services is the City Council's nominated officer for the proper administration of its financial affairs. The day to day discharge of the duties of proper financial administration is carried out through a framework of delegated authority set by the Director of Finance and Legal Services.~~

### 3.6.3 **Finance Structure in Coventry**

~~—Coventry City Council operates a decentralised finance structure — finance staff are located in service departments, working closely with service officers who are delivering services and managing their finances. Each finance team is headed by a Principal Finance Officer.~~

~~—The Director of Finance and Legal Services, working with the relevant service Director, designates an employee in each department as Finance Manager to assist the service Director to ensure compliance with the proper administration of financial affairs.~~

## 3.6.2 **Financial Responsibilities of the Council, Cabinet, Cabinet Members and Officers**

The Council, Cabinet, and Cabinet Members and Officers will exercise their financial responsibilities in accordance with the Constitution and ~~terms of reference of the Scheme of Delegation, Cabinet and Cabinet Portfolios.~~ Thresholds for the approval of specific financial transactions are set out below:

### 3.6.2.1 Budget Approval and Amendment:

(a) approval of the revenue budget, capital programme and treasury strategy:  
Council;

(b) revenue and capital budget adjustments excluding Technical Adjustments:

- Up to £250,000 ~ joint approval by the relevant Service Director(s) and the Executive Director, Resources or nominees;
- Over £250,000 and up to £500,000 ~ Strategic Management Board/Strategic Management Board or the equivalent;

- Over £500,000 and up to £1,000,000 ~ Cabinet Member
- Over £1,000,000 and up to £1,500,000 ~ Cabinet
- Over £1,500,000 ~ Council.

(c) any proposed schemes which are unfunded require the approval of the full Council.

(d) Technical adjustments which have no overall impact on the City Council's "bottom line", and meet the following requirements:

- are internal transfers between different areas of the City Council;
- involve no cash transactions with third parties; and
- do not increase or decrease the budget over which a budget holder has spending discretion

Technical Adjustments can be approved by the Executive Director, Resources or nominee.

#### 3.6.2.2 Grant Income:

Approval prior to signature of grant agreement:

- (a) Up to £500,000 ~ joint approval by the relevant Service Director(s) and the Executive Director, Resources or nominees;
- (b) Over £500,000 and up to £2,500,000 ~ Cabinet (Note : Cabinet Member where there is insufficient time for Cabinet approval);
- (c) Over £2,500,000 ~ Council.

#### 3.6.2.3 Write Off of Debts

Approval to write off sums owed to the City Council

- (a) Up to £100,000 ~ Executive Director, Resources or nominees;
- (b) Over £100,000 ~ Cabinet Member Portfolio Holder;

3.6.2.4 The requirements applying to the decision to procure goods, works and services including concession agreements are set out in the Rules for Contract

3.6.2.5 The requirements applying to the decision to make grants to individuals or organisations are set out in the Rules for Grants.

3.6.2.6 The requirements applying to the decision to disposal of property assets are set out in the Scheme of Delegation in the Council's Constitution

#### 3.6.3 Responsibilities of the Executive Director, Resources

3.6.3.1 The Executive Director, Resources has various statutory duties in relation to the financial administration and stewardship of the Council.

3.6.3.2 The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972
- (b) Section 114 and 114A of the Local Government Finance Act 1988
- (c) Section 25 of the Local Government Act 2003
- (d) Parts 2 and 3 of the Accounts and Audit Regulations 2011, as amended.

3.6.3.3 Section 151 of the Local Government Act 1972 requires the Council to make arrangements for the proper administration of their financial affairs and to secure that one of their officers has responsibility for the administration of those affairs. The Council has designated the Executive Director, Resources to fulfil this role and he/she has the statutory title of Chief Finance Officer.

3.6.3.4 Sections 114 and 114A of the Local Government Finance Act 1988 require the Executive Director, Resources to report to the Executive or the Full Council (as appropriate) and to the external auditor, if it appears to him/her that the Executive or the Council or a person or committee on their behalf: -

- (a) has made, or is about to make, a decision which involves or would involve the authority in incurring expenditure which is unlawful
- (b) has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council
- (c) is about to enter an item of account the entry of which is unlawful

3.6.3.5 Section 114 of the 1988 Act further requires the Executive Director, Resources to report to full Council if it appears to him/her that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

3.6.3.6 In preparing reports under Section 114 or 114A, the Executive Director, Resources should consult so far as practicable the Chief Executive and the Monitoring Officer. The Executive Director, Resources should also nominate a properly qualified member of staff to deputise if he or she is unable to act owing to absence or illness.

3.6.3.7 The Council must provide the Executive Director, Resources with such staff, accommodation and other resources as are in his/her opinion sufficient to allow his/her duties under Section 114 and 114A to be performed.

3.6.3.8 When the Council is setting its budget the Executive Director, Resources is required under Section 25 of the Local Government Act 2003 to report on: -

- (a) the robustness of the estimates made for the purposes of the calculations
- (b) the adequacy of the proposed financial reserves.

3.6.3.9 Parts 2 and 3 of the Accounts and Audit Regulations 2011, as amended, require the Executive Director, Resources to determine on behalf of the Council: -

- (a) its accounting records, including the form of accounts and supporting accounting records
- (b) its accounting control systems

3.6.3.10 The Executive Director, Resources is responsible for: -

- (a) the proper administration of the Council's financial affairs
- (b) setting and monitoring compliance with financial management standards
- (c) ensuring proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Council
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (e) to forecast the availability of financial resources
- (f) preparing the revenue budget and capital programme
- (g) treasury management and banking
- (h) ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators
- (i) having a particular concern for the efficient and effective use of the Council's resources in achieving value for money
- (j) maintaining a continuous review of the financial systems and processes
- (k) reporting breaches of Financial Procedure Rules and financial rules, where appropriate, to the Chief Executive
- (l) issuing advice, guidance and instructions to underpin the Financial Procedure Rules and Finance Function Manuals

3.6.3.11 The Executive Director, Resources will maintain an adequate and effective internal audit service, and make arrangements so that internal auditors have the authority –

- (a) to have access to Council premises at reasonable times
- (b) to have access to documents, records and equipment in the possession of the Council
- (c) to require any officer of the Council to account for cash, stores or any other Council asset under their control
- (d) where possible, to have access to records belonging to third parties, such as contractors, when required
- (e) to receive information concerning any matter under investigation
- (f) to have access to the Chief Executive, the Executive, the Audit Committee and Overview and Scrutiny Committees

**3.6.4 Framework of Delegated Authority**

3.6.4.1 The day to day discharge of the Executive Director, Resources' duties of proper financial administration is carried out through a framework of delegated authority set by the Executive Director, Resources

3.6.4.2 Certain nominated finance officers have responsibility for specifying financial systems, advising on their use, and monitoring compliance. Specifying normally takes the form of the publication of Finance Manuals and issuing other instructions which lay down



best practice for each financial system, and identifies responsibilities. Finance Manuals and associated guidance are published on the City Council's intranet site.

- ~~3.6.4.3~~ Each Executive Director, Director and Deputy Director and each service Head of Function must ensure compliance with the Council's financial rules, as set out in the Financial Procedure Rules, Finance Function manuals and other instructions. They must report to the Executive Director, Resources if they become aware of a failure to comply with the rules.
- ~~3.6.4.4~~ All managers and their staff are responsible for actively managing all the resources under their control so as to achieve policy and service objectives as set by Members. This active management must include securing value for money, maximising resources and staying within the approved budget. All of this should be done within the financial control framework as set down in the Financial Procedure Rules, Finance Function manuals and other instructions.
- ~~3.6.4.5~~ Furthermore, in addition to the statutory reporting duties currently under the Local Government Finance Act 1988, the Executive Director, Resources must also report to the Cabinet Member whose portfolio includes resources any breach of the City Council's financial rules which may jeopardise the sound financial management of the City Council.

~~The bulk of finance related tasks are undertaken by decentralised finance teams. The Director of Finance and Legal Services has retained central responsibility for a limited number of specialist tasks, e.g. treasury management, financial co-ordination work, and to provide support and advice to ensure that Principal Finance Officers carry out their duties to a standard commensurate with the Director of Finance and Legal Services section 151 responsibilities. A key part of this strategic role is acting as system authorising officer for each of the Council's financial systems. Thus central finance officers have responsibility for specifying financial systems, advising on their use in service departments, and monitoring systems' compliance. Specifying normally takes the form of the publication of Finance Function manuals which lay down best practice for each financial system, and identifies responsibilities.~~

~~The specific responsibilities of the Director of Finance and Legal Services, service Directors and Principal Finance Officers are set down in these Finance Function manuals. Each Director and each service Head of Function must ensure compliance with the Council's financial rules, as set out in Finance Function manuals. They must report to the Director of Finance and Legal Services if they become aware of a failure to comply with the rules.~~

~~Furthermore, the Director of Finance and Legal Services must report to the Cabinet Member whose portfolio includes resources any breach of the City Council's financial rules which may jeopardise the sound financial management of the City Council.~~

### ~~3.6.6 – General Responsibilities~~

~~Below are the general responsibilities for proper financial administration for the Director of Finance and Legal Services, service Directors and Principal Finance Officers. These general responsibilities and a summary of their responsibilities for specific financial systems are contained in the Principal Finance Officers Finance Function manual. Also set out below are the responsibilities of Councillors and employees.~~

### ~~3.6.7 — Director of Finance and Legal Services~~

~~3.6.7.1 To act as the City Council's accountant and financial adviser and to carry out all responsibilities as the officer responsible for the proper administration of financial affairs in accordance with Section 151, Local Government Act 1972 (i.e. to act as "the responsible financial officer").~~

~~3.6.7.2 To determine the accounting systems; to ensure that the accounting systems are observed and that the accounts of the City Council and supporting records are kept up-to-date; to prepare and submit to Cabinet Member and Cabinet meetings, and the City Council's external auditors, the accounts relating to all the authority's activities; to prepare and submit the authority's Annual Accounts and financial returns. In carrying out responsibilities, the Director of Finance and Legal Services will take into account the requirements of the Accounts and Audit Regulations 1996 (as amended 2001) (England) Regulations 2011 and CIPFA Accounting Code Codes of Practice.~~

~~3.6.7.3 To compile the City Council's longer term capital and revenue programmes and annual budgets; to forecast the availability of financial resources; to provide financial advice relating to future spending proposals and commitments.~~

~~3.6.7.4 To prepare and revise finance function manuals; to provide advice on the meaning of their contents and on the principles underlying their contents; and to monitor, as a matter of routine, the extent to which they are being complied with.~~

~~3.6.7.5 To maintain an adequate and effective internal audit service; to prepare and submit to Directors (and, if necessary, Cabinet Member and Cabinet meetings) reports on the adequacy of internal control and the economic use of resources; to conduct investigations into major fraud, irregularity and loss; to report annually to the Management Board on internal audit work over the last year.~~

~~3.6.7.6 To have a particular concern for the efficient and effective use of the Council's resources in achieving value for money, while recognising the responsibilities of Directors and heads of function generally, the Assistant Director (Human Resources) (with regard to Human Resources and Information Systems/Technology), the Monitoring Officer as to legality and the Director of City Services and Development (with regard to land and property) in this respect.~~

~~3.6.7.7 Under Section 114 et seq, Local Government Finance Act 1988, to issue a formal report to the City Council's external auditors and to each member of the City Council (or Cabinet for Executive Functions) where it appears that the authority, a Cabinet Member or the Cabinet, or an employee of the authority:-~~

~~—— (i) —— has made or is about to make a decision which involves or would involve the authority incurring spending which is unlawful;~~

~~—— (ii) —— has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority;~~

~~—— (iii) —— is about to enter an item of account, the entry of which is unlawful.~~

~~3.6.7.8 The Director of Finance and Legal Services is also required to issue a formal report to the same persons if it appears to her/him that the spending of the authority (including planned spending) in a financial year is likely to exceed the resources available to it to meet the spending.~~

~~3.6.7.9 Before using any report the Director of Finance and Legal Services must consult the Chief Executive and Monitoring Officer of the Council.~~

### ~~3.6.8 – Service Directors~~

~~3.6.8.1 To be responsible to the appropriate Cabinet Member for all the financial duties delegated to and undertaken in the department as set out in this document and the Finance Function manuals, and in other instructions, rules and guidance issued by the City Council through the appropriate Cabinet Member.~~

~~3.6.8.2 In particular, to be responsible for the following requirements:-~~

~~—— (i) —— to ensure compliance with the City Council's financial rules agreed by the Council (such as Finance Function manuals and other instructions);~~

~~—— (ii) —— to report to the Director of Finance and Legal Services when they become aware that there is a failure to comply with the rules;~~

~~—— (iii) —— to ensure that their employees consider and address the financial, personnel and legal implications when making operational decisions and also when proposing potential policy developments;~~

~~—— (iv) —— to supply to the Director of Finance and Legal Services details of any proposal which they intend to submit to a Cabinet Member or Cabinet meeting and which has financial implications or is of financial importance, in order that they and the Director of Finance and Legal Services may report jointly to the meeting;~~

~~—— (v) —— in conjunction with the Director of Finance and Legal Services to appoint a responsible officer (i.e. the Principal Finance Officer) for their department.~~

~~3.6.8.3 To collaborate with the Director of Finance and Legal Services and other Strategic Directors in undertaking any matters with financial implications and achieving value for money in the provision of services.~~

~~3.6.8.4 To ensure that adequate facilities are made available to both internal and external auditors and that reasoned and timely responses are made to audit reports and reports from Systems Authorising Officers.~~

### ~~3.6.9 – Finance Managers~~

~~3.6.9.1 To undertake day-to-day responsibility on behalf of both the Director of Finance and Legal Services and the service Director for the proper and efficient conduct of financial affairs within the department, and to aid the department in obtaining value for money. In discharging this responsibility, the Finance Manager has professional responsibility to the Director of Finance and Legal Services on accounting principles, financial standards, systems and performance; and day to day have management responsibility to the service Director for the effective delivery of financial services to their department~~

~~3.6.9.2 To provide assurance to the service Director and the Director of Finance and Legal Services that, as far as possible, financial business within the department is legal and regular. The~~

~~primary source of advice on questions of legality is obtained from the Legal Services Department which should be consulted when there is any doubt.~~

~~3.6.9.3 To play a key role in ensuring that the processes of the City Council's Policies, Priorities and Resources (PPR) system are undertaken within the department; to assist positively the departmental management team in identifying the department's financial needs, the problems that need to be addressed and their value for money implications. In relation to specific proposals, to ensure that the objectives are clear and appropriate, that the alternatives have been explored, that the proposal has been properly evaluated and that the resource implications have been set out.~~

~~3.6.9.4 To organise the annual estimates exercise, including preparation of the capital programme so that the City Council's timetables are met, that budget holders are able to contribute to the process and that the resulting revenue budget and capital programme accords with the guidelines and standards set by the Director of Finance and Legal Services.~~

~~3.6.9.5 To ensure that there is a satisfactory system of budgetary control within the department, that information provided to budget holders enables them to carry out their responsibilities, that budget holders are carrying out those responsibilities, and that their Director is advised of the overall budgetary control position and of any issues which need to be resolved.~~

~~3.6.9.6 To organise the annual closure of the accounts in accordance with the Director of Finance and Legal Services standards, guidelines and timetable. There is a specific responsibility on the Finance Manager to ensure that the accounts present fairly the financial position of the department and that they adhere to accounting principles.~~

~~3.6.9.7 To give financial advice to the department and to Member meetings through the signing of reports on behalf of the Director of Finance and Legal Services and by attending formal and informal meetings as her/his representative.~~

~~3.6.9.8 To define, allocate or agree the allocation of, and monitor the discharge of responsibilities for all the financial activities within the department.~~

~~3.6.9.9 To agree or specify, and monitor compliance with, the methods of operation for all the financial activities within the department.~~

~~3.6.9.10 — To provide, when necessary, officers in the department with information on the contents of Finance Function Manuals, and advice on their interpretation, and act as a link between the department and Coventry Finance on such matters.~~

~~3.6.9.11 — To report directly and promptly to their service Director and Director of Finance and Legal Services, (and where she/he thinks it is appropriate, to the Chief Executive) on any actual failure or a risk of failure to achieve sound financial management of her/his department or directorate. This must include any actual, suspected or potential significant irregularity.~~

~~3.6.9.12 — In the event of a Finance Manager facing conflict in a material respect between the instructions of her/his service Director and the proper administration of the City Council's financial affairs, to report the matter to the Director of Finance and Legal Services immediately and inform her/his Director of any such action or proposed action.~~

~~3.6.10 — **Capital Working Group**~~

~~The Capital Working Group meets on a regular basis in order to provide recommendations to Management Board on a number of issues including medium term capital issues, asset management planning, corporate property (including disposals) strategy and the Council's five year Capital Programme.~~

~~Within the scheme of delegation, the Capital Working Group has delegated authority to approve new schemes up to [£250,000] where funding has already been identified or can be vired from existing approved schemes.~~

#### ~~3.6.11 Members~~

~~— This Constitution contains the responsibilities of Members. For example, there are statutory financial duties — to approve a balanced budget. In addition, Members need to make policy decisions as necessary to ensure that sound financial management is maintained.~~

#### ~~3.6.12 Managers and Their Staff~~

~~— Managers and their staff are responsible for actively managing all the resources under their control so as to achieve policy and service objectives as set by Members. This active management must include securing value for money, maximising resources and staying within the approved budget. All of this should be done within the financial control framework as set down in the Finance Function manuals.~~

### ~~3.6. Financial Systems and Processes~~

~~— In support of the general responsibilities set out above, the Director of Finance and Legal Services publishes a series of Finance Function manuals which set out best practice for financial systems and processes — the details of the financial framework for which s/he is responsible as section 151 officer. These are identified in summary form below.~~

~~**3.6..1 Account maintenance:** The purpose of this manual is to ensure the accurate recording of transactions in the Council's computerised accounts. It provides the framework within which officers are expected to use and maintain the Council's General Ledger, which holds details of all financial transactions incurred by the City Council. The manual sets out the principles for ensuring that the Council's General Ledger provides accurate and timely financial information.~~

~~**3.6..2 Bank Accounts** This manual provides the framework within which the City Council exercises control over the operation of its bank accounts, and ensures that the opening, operating and closing of bank accounts is done in a controlled, uniform and proper manner.~~

#### ~~3.6..3 Budgetary Control:~~

~~— In it, the specific responsibilities of budget holders (service managers who have a budget allocated to them to deliver services) are set down. These include the management of their services within the cash-limited budget provided by the Council, and the paying of continuous attention to their budgetary control position, identifying potential variations (between budget and actual spending) and taking corrective action.~~

~~— The manual also specifies the rules for transferring amounts between budgets, the technical name for which is virement. At the budget holder level, this enables the service officer to respond to changing circumstances within his/her budget. The manual permits Directors to authorise~~

~~virements between any two budget heads provided they are within approved policy, and will not give rise to budgetary pressures in the current or future years.~~

~~— Virements which are outside specific approved policy require the approval of the individual Cabinet Member for amounts up to £100,000, and the approval of the full Cabinet for amounts over £100,000.~~

~~3.6..4 *Capita* The purpose of this manual is to ensure that the Council's capital spending is managed and monitored effectively. Within local government finance, a distinction is drawn between revenue and capital expenditure. In broad terms capital spending is one off spending on, or related to, longer lasting assets such as roads and buildings. Revenue spending is on day to day spending like salaries. Revenue and Capital spending are both financed and accounted for separately in local government.~~

~~— The Director of Finance and Legal Services publishes this manual to guide officers, mainly but not exclusively finance staff, on what is a very technically complex area. The manual covers the definition of capital spending, capital accounting requirements, government rules surrounding capital, and the requirements for the approval of capital expenditure.~~

~~3.6..5 *Cash Control* The purpose of this manual is to ensure the effective control of the Council's cash. Cash (coins, banknotes, cheques, postal orders, stamps etc) is the one negotiable asset of the City Council which is available for use by anyone, authorised or unauthorised, and whether employed by the council or not. This manual lays down the rules for the strict control of cash in order that potential losses are minimised, and actual losses are identified and reported as soon as possible after they occur.~~

~~3.6..6 *Contracts* The Contract Procedure Rules (currently Rules for Contracts) are set out in Part 3.7. The City Council has established written standing orders and administrative procedures— rules to govern its business in relation to contracts for the supply of works and services including consultancies. These are not limited to financial rules, and are issued by the Director of Finance and Legal Services, but for completeness they are included here. They exist to protect the City Council, its Members, Directors and other officers involved in the award of contracts, to demonstrate that the City Council is obtaining value for money in the award of contracts, and to prevent corruption, or allegations of corruption, in the award of contracts. They provide the means of securing competition in the award of contracts, to regulate the manner in which tenders are invited, and to monitor and control the performance and delivery of contracts awarded.~~

~~*Creditors* The purpose of this manual is to ensure that the Council pays invoices to its suppliers in a controlled way. The City Council pays 300,000 invoices each year to its suppliers of goods and services. The Director of Finance and Legal Services publishes a manual to set out the means by which proper control can be established and maintained over these payments, so that they can be made in an accurate, and timely way and accounted for correctly.~~

~~3.6..8 *Debtors* The purpose of this manual is to ensure that the Council bills its customers and manages the receipt of income in a controlled way. The City Council issues 275,000 invoices each year to customers of its services. The Director of Finance and Legal Services sets down in the Debtors Finance Function manual best practice, guidance and controls for the prompt raising of these invoices, credit management, and control and recovery of debts.~~

~~3.6..9 Education – Fair Funding: The Fair Funding scheme of delegation defines the status of financial regulations and the responsibility of schools to observe them. The scheme contains regulations which cover all aspects of financial management, and are designed to assist Governing Bodies in discharging their responsibilities. Governing Bodies are responsible for proper financial management and financial probity of their schools, and are publicly accountable for the money spent. Governors should conduct the business of the school in a manner consistent with public expectations of legality and propriety. The Director of Finance and Legal Services' responsibility for the proper administration of the City Council's financial affairs includes all aspects of financial management undertaken by Governing Bodies, which is discharged through the Finance Manager for the Education service.~~

~~3.6..10 Estimates: The purpose of this manual is to set down best practice in the preparation of the Council's annual budget. Each year, the City Council's Cabinet approves the Budget Requirement for the following financial year. The budget is a detailed presentation of the Council's plans and objectives, expressed in £s. The preparation of these estimates is a part of the Budget and Policy Framework which is set down separately in this Constitution. The Director of Finance and Legal Services publishes Estimates guidance notes each year to assist officers prepare estimates in a uniform way which reflects the service and financial policies and decisions of the Council.~~

~~3.6..11 Final Accounts The purpose of this manual is to set down best practice in the preparation of the Council's annual accounts. At the end of each financial year, the City Council is required by law to produce and publish its Statement of Accounts. Our External Auditors audit these accounts and give their audit opinion. The Director of Finance and Legal Services produces Final Accounts guidance notes to assist officers throughout the Council to make their contribution to the year end closedown process. The guidance covers accounting principles and practices, best practice and timetable.~~

~~3.6..12 Funding of External Organisations: The purpose of this manual is to ensure that resources provided to external organisations are utilised in a way which is consistent with the Council's controls. The City Council works with the community and voluntary sectors to provide some services. The Funding of External Organisations manual seeks to ensure that management and financial arrangements are in place so that the funding of external organisations is administered in a manner which will achieve City Council policies, safeguard public money, and demonstrate that funding has been awarded fairly.~~

~~3.6..13 Grants Claims: The purpose of this manual is to ensure the Council's grant submissions and claims are managed effectively from a financial point of view. The City Council receives significant sums of money from external organisations in the form of grant. It is very much in the Council's interest that eligible grants are identified, grant claims are accurately calculated, grant claims are made at the appropriate time, grant income received is monitored, and grant bids are evaluated (so there is no undue risk if bids are unsuccessful). The Grant Claims manual gives general guidance on the necessary procedures and control requirements to be followed surrounding grant claims.~~

~~3.6..14 Inventories This manual has been established to give guidance on the provision of records of portable and attractive items so that loss can be deterred and/or detected.~~

~~3.6..15 Joint Financial Reports: The purpose of this manual is to ensure that Members of the Council have the right financial advice to assist them when they make policy decisions (establish new policy or change existing policy). In Coventry City Council, these policy decisions are taken either by individual Cabinet Members, or the Cabinet, following the receipt of written reports from~~

~~Strategic Directors and Heads of Function. The Director of Finance and Legal Services gives financial advice to individual Cabinet Members, or the full Cabinet, by contributing to these written reports. The preparation of these written reports is supported by the Protocol for the Production of Reports contained in this Constitution. The relevant Finance Manager must be consulted on all reports to determine whether there are any financial implications. If the Finance Manager confirms there are financial implications, the report must reflect this, and the financial information contained in the report must have regard to these Finance Procedure Rules, and the supporting financial regulations contained in Finance Function manuals, especially the Joint Financial Reports manual. This sets out the full requirement for financial information in order to ensure that Members can make an informed decision. (The need for an analysis of the alternative ways to achieve an objective, contained in this manual, is now enshrined in the options analysis required by the 2000 Act).[?]~~

~~— A key issue is the circumstances in which proposals (in the form of written reports) are presented to full Cabinet rather than individual Cabinet Members. The general policy of the Council is that all proposals to spend resources where the total spend is £500,000 or more, and all virement requests over £100,000 (see the definition in the Budgetary Control section above). In addition, a proposal will be referred to Cabinet:~~

~~— (a) — when a Cabinet Member refers, although the financial implications are not significant,~~

~~— (b) — when the Cabinet Member whose portfolio includes resources refers, because of corporate/resource considerations~~

~~— (c) — when the Director of Finance and Legal Services refers because of technical financial considerations.~~

~~3.6..16 Payroll Payroll: The purpose of this manual is to ensure that there are effective arrangements for the administration of the Council's payroll. The City Council's City Pay business unit makes over 400,000 individual payments each year. The Payroll Finance Function manual establishes the control and procedural framework designed to ensure that these payments are made accurately, on time, in accordance with the City Council's conditions of service, and with the minimal risk of error or fraud.~~

~~3.6..17 Private and Unofficial Funds: This manual sets out the arrangements to ensure that funds not provided by the Council are managed in a way which is consistent with the way the Council manages its own funds. Private and Unofficial funds is a term used to describe those resources which are not provided by the City Council. For some Council services, these funds can be significant. Whilst the City Council recognises that these funds are separate from its own resources, nevertheless proper financial administration is still essential. The Private Funds Finance function manual contains guidance on the administration of such funds.~~

~~3.6..18 Procurement (of works, services and supplies): The purpose of this manual is to ensure that the Council's procurement is conducted in a controlled and cost effective way. The Procurement Manual sets out the rules and responsibilities for the commissioning of contracts for the provision of works and services and for the supply of goods and materials. The manual also provides guidance on the need to use central purchasing arrangements where these exist.~~



*Reserves:* The purpose of these regulations is to ensure continuity in the way that reserves are created and held centrally on behalf of the Council as a whole. In all cases, all reserves must have an auditable written purpose for their usage including how and when they may be used.

*3.6..20 Risk Management and Insurance:* Every officer employed by Coventry City Council has a risk management responsibility. In the delivery of its services, the City Council is affected by many risks which lead to loss. These losses include financial losses, and also disruption of service, and inconvenience to service users and staff. Some losses can be insured against, whilst others cannot. The Risk Management and Insurance manual sets out the Council's policies, practices, procedures and mechanisms in relation to insurance and self-insurance, and also the proactive approach of risk management which seeks to identify risks, to implement strategies for risk elimination or risk reduction, to put in place financial mechanisms for remaining risks, and to monitor ongoing performance.

*3.6..21 Stores:* This manual sets out procedures for the accounting for stores transactions, security of storage, stock checking, stock adjustment procedures, stock balance certification, monitoring of stocks and disposal of surplus stocks.

*3.6..22 Trading Services:* The purpose of this manual is to set out the framework for the effective management of the finances of the Council's trading services. This manual provides guidance on financial and related matters for the operation of trading and quasi-trading services within the City Council. Whilst all Finance Function manuals apply equally to trading and non-trading services, this manual supplements the other manuals by focusing on requirements specific to trading services. In particular, each such organisation will submit its annual report and accounts to the Cabinet.

*3.6..23 Treasury Management:* The purpose of this manual is to set out the control framework for the effective management of the Council's treasury authorities. The City Council has to manage its cash flows, its banking, its money market and capital market transactions, the effective control of the risks associated with those activities, and the pursuit of optimum performance consistent with those risks. This is called Treasury Management. The City Council defines the policies and objectives of its treasury management activities in the same way as set down in the Chartered Institute of Public Finance and Accountancy Treasury Management in the Public Services: Code of Practice 2001. The City Council's Cabinet at its meeting on 19 March 2002 approved and adopted the Code2011.

*3.6..24 Value Added Tax:* This manual ensures that the Council complies with VAT registration and rules. VAT is a complex tax. This manual describes what is required to understand the general principles of the tax and its application to local authorities, not only for employees involved in making payments and collecting income, but also employees involved in making policy decisions about the disposal and acquisition of property, provision of services and the initiation of capital projects.

*3.6..25 Working through Partnership—Joint Ventures:* The objective of this manual is to establish a framework for guidance and control of the Council's partnership arrangements. Partnerships are a means of achieving the City Council's service and policy objectives through joint working with outside parties. This manual, part of the management framework necessary to ensure that Members' policies are implemented effectively and in a controlled way, sets out a framework of accountability and responsibility, covering the process for creating partnerships as well as the ongoing accountability.

## City Council Financial Approval Limits

<u>Governance Forum</u>	<u>Director</u>	<u>Exec Director of Resources</u>	<u>Procurement Panel</u>	<u>Procurement Board</u>	<u>Corporate Mgt Board</u>	<u>Cabinet Portfolio Holder</u>	<u>Cabinet</u>	<u>Council</u>
<b><u>Approval Category</u></b>								
<b><u>Budget</u></b>	-	-	-	-	-	-	-	-
<u>Overall Balanced Budget</u>	-	-	-	-	-	-	-	<u>Unlimited</u>
<u>Revenue Budget Adjustments (Virement)</u>	<u>Joint up to £0.25m</u>		-	-	<u>£0.25m to £0.5m</u>	<u>£0.5m to £1m</u>	<u>£1m to £1.5m</u>	<u>Above £1.5m</u>
<u>Capital Budget Adjustments (Virement)</u>	<u>Joint up to £0.25m</u>		-	-	<u>£0.25m to £0.5m</u>	<u>£0.5m to £1m</u>	<u>£1m to £1.5m</u>	<u>Above £1.5m</u>
<b><u>Grant Income</u></b>	-		-	-	-	-	-	-
<u>Approval to Bid for Grant Income</u>	<u>Joint up to £0.5m</u>		-	-	-	<u>£0.5m to £2.5m*</u>	<u>£0.5m to £2.5m*</u>	<u>Above £2.5m</u>
<b><u>Grant Expenditure</u></b>	-		-	-	-	-	-	-
<u>Approval to Grant Awards to an External Body</u>	<u>Up to £0.05m</u>		-	-	-	<u>£0.05m to £0.25m</u>	<u>£0.25m to £1.5m</u>	<u>Above £1.5m</u>
<b><u>Debt Write Off</u></b>	-	-	-	-	-	-	-	-
<u>Approval to Write Off of Sums Owed to the Council</u>	-	<u>Up to £0.1m</u>	-	-	-	<u>Above £0.1m</u>	-	-
<b><u>Procurement</u></b>	-	-	-	-	-	-	-	-
<u>Approval to Procure</u>	<u>Up to £0.05m</u>	-	<u>£0.05m to £1m</u>	<u>Above £1m**</u>	-	-	<u>Above £1m***</u>	-

\* Approval by Cabinet if there is time, if not by Cabinet Member; \*\* Total contract value; \*\*\* annual contract value

### 3.7 Rules for Contracts and Disposal of Land Procedure Rules

~~3.7.4~~ The Council's Rules for Contracts apply.

~~3.7.2~~ Part G of former Standing Orders (Sale or other Disposal of Land) will also apply.

#### 3.7.1 Introduction

3.7.1.1 The Local Government Act 1972 requires the Council to have standing orders with respect to the making of contracts. These Rules for Contract are the standing orders required by the 1972 Act. They are part of the Council's Constitution and are, in effect, the instructions of the Council to officers and councillors for making contracts on behalf of the Council. The purpose of these Rules for Contracts is to set clear rules for the procurement of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach. Accordingly, these Rules for Contracts must be followed for all contracts (but excluding the categories listed in para. 3.2, grants and land contracts which are dealt with under different rules) for:-

- the supply of goods to the Council;
- the supply of services to the Council; and
- the execution of works for the Council.

3.7.1.2 The Council has a Procurement Strategy, setting out how the Council intends to go about procuring works, goods and services. Conformity to these Rules for Contracts, and the Council's employee Codes of Conduct, will ensure that contracts are let in accordance with the Procurement Strategy, the Compliant Procurement Process and associated User Guides and Procedures

3.7.1.3 The Council is subject also to the United Kingdom Public Contract regulations 2006 the legislation which reflects the EU Public Procurement Directives. This legislation requires contract letting procedures to be open, fair and transparent. These Rules for Contracts provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the Council has a procurement regime that is fully accountable and compliant with the legislation.

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### 3.7.2 Definitions

In these Rules for Contracts:

**Assistant Director Legal and Democratic Services** means the person holding that post or his or her authorised representative

**Assistant Director Procurement** means the Head of Procurement and Commissioning Services or his or her authorised representative

**Authorising Officer** means an officer authorised to approve the placement of orders or invoices for payment.

**Cabinet** means the Leader of the Council and the other members of the Council's Executive.

**Contract** means the agreement between the Council and a contractor for the supply of works, goods or services, or for any activity that generates income for the Council.

**Contractor** means a supplier or provider of works, goods or services to the Council.

**Contract change note** means the document that describes changes to the original contract which have been agreed by both parties.

**Contract package** means the scope for amalgamating like requirements/services currently operating at different parts of the organisation, to suit the supply market to achieve overall better value.

**Corporate contract** means a contract or framework agreement for the supply of works, goods or services to the Council e.g. for computer consumables, stationery, legal and financial services.

**Decision making body** means the body responsible for decisions in the described situation under the Council's Constitution.

**Director(s)** means a member(s) of the Council's Strategic Management Board.

**Framework Agreement** means an agreement between the Council and a contractor for the provision of estimated quantities of goods or services. This becomes a contract when an order for a specific quantity is placed either after further competition or through the most competitive source identified in the original tender.

**Localism Act 2011** means the Localism Act 2011

**Monitoring Officer** means the officer designated as such under Section 5 of the Local Government and Housing Act 1989 or his or her deputy.

**Outcome based specifications** means a specification that describes the required outcomes through service delivery and leaves the method of delivery to the third party provider.

**Panels** means the People or Place or Resource Panel

**People Panel** means the officer panel responsible for adult and children's social care, housing, public health and public safety.

**Performance Specifications** means a specification that provides details of the methods to be adopted when delivering the requirements.

**Place Panel** means the officer panel responsible for built environment, highways street scene, transport, waste, facilities management and operational property.

**Procurement Board** means the officer board responsible for all procurement decisions.

**Procurement Service** means the centralised procurement and commissioning service for Coventry City Council

**Public procurement legislation** means the Remedies Directive 1992, The Public Contracts Regulations 2006, the EC Directives from which they are derived, UK legislation affecting public sector contracts and any amendment, re-enactment or replacement of any of them.

**Quotation** means an offer to undertake a contract of £10,000 or more but less than £50,000 in value.

**Resource Panel** means the officer panel responsible for financial, ICT/Telecoms, consumables and professional services.

**Right to challenge** means the right to challenge for services under the Localism Act 2011

**Services contract** means a contract or framework agreement for the provision of services to the Council.

**Chief Finance Officer** means the officer appointed under section 151 of the Local Government Act 1972

**Supplies contract** means a contract or framework agreement for the sale or hire of goods to the Council and includes, where appropriate, installation of goods.

**Tender** means an offer to undertake a contract of £50,000 or more in value.

**TUPE Regulations** means the Transfer of Undertakings (Protection of Employment) Regulations 1981 and any amendment, re-enactment or replacement of the same.

**Works contract** means a contract for the construction, repair or maintenance of a physical asset not defined as Services in the Public Contract Regulations.

**3.7.3**

<b><u>RULES FOR CONTRACTS</u></b>	
<b><u>Quick Reference Guide Table – Financial Thresholds</u></b>	
<u>£3,927,260 +</u>	<u>Competitive tenders and Public Contract Regulations 2006 required for works, goods and services contracts. Contracts in the form of Deeds must be prepared in Legal Services and sealed formally for the Council and witnessed by an authorised signatory in Resources Directorate.</u>
<u>£150,000 +</u>	<u>Competitive tenders and Public Contract Regulations 2006 required for goods and services contracts. Contracts in the form of Deeds must be prepared in Legal Services and sealed formally and witnessed by an authorised Signatory in Resources Directorate.</u>
<u>£50,000- £149,999</u>	<u>Competitive tenders required. Contract on standard form of contract or bespoke form of contract. Contract signed by Assistant Director Procurement</u>
<u>£10,000 - £49,999</u>	<u>Competitive quotations required. Contract on official order form or standard form of contract. Contract signed by Assistant Director Procurement.</u>
<u>Below £10,000</u>	<u>No need for competitive quotations, but must either use corporate contracts where one exists or show value for money. Use official order form.</u>
<u>NB Any requirement over £10,000</u>	<u>Use (a) corporate contract where one exists unless there is good reason not to; or (b) refer the requirement to the Procurement Service</u>

**3.7.4 Summary of Rules for Contracts – quick reference guide including approval levels.**

<b><u>Procurement Process</u></b>	<b><u>Above £1million in value</u></b>	<b><u>Over £50,000 – and under £1million</u></b>	<b><u>£10,000 and under £150,000</u></b>	<b><u>Below £10,000</u></b>
<b><u>Requirement to be referred to</u></b>	<b><u>Procurement Board</u></b>	<b><u>Panels</u></b>	<b><u>Procurement Service</u></b>	<b><u>N/A</u></b>
<b><u>Approval</u></b>	<b><u>Through budget setting and compliance with Rules for Contracts, Procurement Board approval</u> <b><u>NB where the annual value is higher than £1million approval must be obtained from the relevant Cabinet Member portfolio holder</u></b></b>	<b><u>Panel approval.</u></b>	<b><u>Director approval or delegated authority to budget holder</u></b>	<b><u>Budget holder</u></b>
<b><u>Invitation to tender</u></b>	<b><u>Supplies and Services - Public Contract Regulations 2006</u> <b><u>Works &gt; £3.9m Public Contract Regulations 2006</u></b></b>	<b><u>Competitive tenders. Minimum of 3, which must be advertised.</u></b>	<b><u>Minimum of 3 written competitive quotations in addition, where appropriate, a minimum of 2 should be local.</u></b>	<b><u>Use of corporate contract or demonstrate value for money</u></b>
<b><u>Opening of tenders</u></b>	<b><u>Electronic or Legal Services in presence of Procurement Service.</u></b>	<b><u>Electronic or - Legal Services in presence of Procurement Services.</u></b>	<b><u>N/A - quotes</u></b>	<b><u>N/A</u></b>
<b><u>Form of Contract</u></b>	<b><u>Standard or bespoke Form of Contract. Contracts in the form of Deeds must be prepared and sealed in Legal Services</u></b>	<b><u>Standard or bespoke Form of Contract as advised by Legal Services/Procurement Service.</u></b>	<b><u>Official order form or standard Form of Contract</u></b>	<b><u>Official order form or Council procurement card</u></b>
<b><u>Contract to be endorsed/signed by</u></b>	<b><u>Under seal by the Council in the presence of Authorised signatory in Resources Directorate.</u></b>	<b><u>Under seal by the Council in the presence of Authorised signatory in Resources Directorate.</u></b>	<b><u>Assistant Director Procurement</u></b>	<b><u>Budget holder</u></b>



N.B. Contracts to be signed before expenditure incurred

3.7.4.1 The Director responsible for the Procurement Service and the Chief Finance Officer (if they are not the same officer) or his/or her authorised deputy, subject to conditions, may grant authorise a contract as an exception to the Rules for Contracts if the works or services are below EU thresholds. An exception cannot be granted where a breach of any UK or EU legislation would be incurred.

3.7.5. Objectives

3.7.5.1 The Rules for Contracts exist to achieve the aims set out below and to assist and protect the interests of the Council and individual Officers.

It is important that they are viewed as **an aid to good management and not as a hindrance**. Followed properly they provide protection for Officers against criticism and support good procurement practice.

Officers must be able to demonstrate that they followed procedure or had obtained the necessary authority for not doing so, in order to:-

- ✓ ensure value for money is obtained;
- ✓ ensure probity in the award of Council contracts;
- ✓ ensure fairness, equity, openness and transparency in the treatment of contractors/suppliers;
- ✓ ensure that procedures for placing contracts/orders comply with legislation;
- ✓ ensure records are kept which demonstrate compliance with Rules for Contracts.

3.7.6 Scope of Rules for Contracts

3.7.6.1 All purchases and contracts made in the name of and binding the Council must comply with these Rules for Contracts, and also any contract that involves income to the Council. This includes contracts where the expenditure is grant aided by a third party. These rules also apply to a company which is owned or controlled by the Council or is funded by public money . Any arrangement where the Council pays or receives money or equivalent value, other than a contract to employ staff, must comply with these Rules. This includes contracts for:

- (a) buying and selling goods;
- (b) any work being carried out;
- (c) services (including financial and consultancy services);
- (d) hire, rental or lease (of goods)
- (e) concession agreements

3.7.6.2 To receive and deal with expressions of interest (through the Procurement Board or the Panels as appropriate) from relevant bodies in providing or assisting in providing a relevant service on behalf of the Council in accordance with Part 5, Chapter 2 of the Localism Act 2011 and to consult with the relevant Cabinet member on each expression of interest that is received

### 3.7.7 Compliance

3.7.7.1 Every contract entered into on behalf of the Council must comply with these Rules for Contracts and all relevant UK and EU legislation.

3.7.7.2 The only areas excluded from these rules are:

- (a) Internally recharged services;
- (b) Schemes where the Council has delegated a function to a third party to perform and where a contract makes separate provision for procurement rules
- (c) Test purchasing in the course of an Officer's duty. (e.g. Trading Standards).
- (d) land transactions which have their own rules
- (e) grants which have their own rules

3.7.7.3 All contracts must be in writing. Whenever possible, contracts under £50,000 in value must be made on an official Council order form or standard form of contract, as appropriate, approved by a designated Authorising Officer, with the Council's standard terms of trading endorsed or referred to. For works contracts, one of the standard forms of contract, such as the NEC, JCT or ICE forms may be appropriate. The Procurement Service, in consultation with Legal Services will advise on other suitable forms of contract.

3.7.7.4 Responsibility for compliance with Rules for Contracts remains at all times with Council officers. Directors and the Assistant Director Procurement will be responsible for monitoring compliance against these rules, aided by internal or external audits or inspections which will be carried out as appropriate.

3.7.7.5 See Section 3.7.9 regarding approvals required before a Relevant Procedure (as defined in paragraph 3.7.9.1.1) may be commenced.

### 3.7.8 Justification of Need and the Common Commissioning Framework/commissioning cycle

3.7.8.1 Before any Relevant Procedure (as defined in paragraph 3.7.9.1.1) is commenced consideration must be given to:

- (a) whether the expenditure is really necessary;

(b) whether a critical review has been carried out to identify if the requirement can be met from within existing resources or whether it is being funded through grants or other approved income sources;

(c) the revenue consequences of any capital investment; and

(d) in any case, whether the necessary approvals in section 3.7.9 have been obtained.

3.7.8.2 If the purchase is justified then for goods, the exact requirements must be defined and an appropriate specification drawn up. For Services and Works, the full commissioning cycle must be followed i.e. plan, understanding where we are now and where we want to get to, engage, involving key stakeholders. Secure, sourcing the right services or works to meet need, manage, ensuring good performance.

### **3.7.9 Approvals required before certain Relevant Procedures are commenced**

3.7.9.1 Section 3.7.9 applies to any Relevant Procedure :

3.7.9.1.1 **Relevant Procedure:** means any procedure conducted by or on behalf of the Council for the genuine purpose of the Council (alone or with others) entering into a contract for the purchase of goods, services and/or works, subject to the following:

(a) This shall include (without limitation), the seeking of quotations, the conduct of any tender exercise, the conduct of any mini-competition exercise under a framework agreement, the making of a purchase under a dynamic purchasing system or off an approved list (or the like), and the conduct of a negotiated procedure by or on behalf of the Council.

(b) This shall not include any genuine exercise to research market conditions (including without limitation, any soft market testing or benchmarking exercise) which is not in itself genuinely intended to directly result in the Council entering into a contract for the purchase of goods, services and/or works.

3.7.9.1.2 This section 3.7.9 only applies to conduct involving Council members and its officers, and does not apply as between the Council and the public at large. Accordingly (and without limiting the implications of this), non-compliance by the Council or by any of its members or officers with all or any part of this section 3.7.9 shall not in itself result in any of the following:

(a) Any act by or on behalf of the Council resulting from that non-compliance being invalid for any reason (including without limitation, any assertion that the Council has acted beyond its powers).

(b) Any member of the public (including any person to who takes part in a Relevant Procedure which is conducted in breach of this section 3.7.9) having any claim of any kind whatsoever against the Council, including any claim for compensation.

3.7.9.2 Requirements before a Relevant Procedure may be commenced:

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All of the following, to the extent relevant, and without limiting other requirements elsewhere in the Council's Constitution but subject to the exceptions in paragraph 3.7.9.5:

- (a) The expenditure must be within approved budget and policy framework which has been approved by Members.
- (b) The use of expenditure must have been approved by the Procurement Board (or on the Procurement Board's behalf by the Panels where relevant) in accordance with paragraph 3.7.9.3.
- (c) Where the Relevant Procedure is a sensitive matter (see paragraph 3.7.9.4), the Procurement Board shall consider and give its approval or delegate the approval to the Panels.

3.7.9.3 Delegation by the Procurement Board of the task of considering whether to approve a prospective Relevant Procedure for the purposes of paragraph 3.7.9.2.(b)

The Procurement Board may (but shall not be obliged to) delegate that task to any of its Panels (or its other relevant subcommittees the Procurement Board has in place from time to time), but only if both of the following conditions apply to the prospective Relevant Procedure under consideration:

- (a) The reasonably estimated total value of the contract or contracts for goods, services and/or works expected to be entered by the Council at the conclusion of the Relevant Procedure (whether under a single contract, as aggregated under a framework agreement across its full term, across two (2) or more lots contained in the same Relevant Procedure, or as aggregated under a series of reasonably connected contracts) is **less than** £1,000,000 (one million pounds). Where there is reasonable doubt about whether the value is to exceed that figure, there shall be a presumption for the purposes of this paragraph 3.7.9.3 (a) that it does exceed that figure.
- (b) The Relevant Procedure is **not** a sensitive matter (see paragraph 3.7.9.4).

3.7.9.4 Any of the following may constitute a 'sensitive matter' for the purposes of this section 3.7.9 but the Procurement Board or Panels will make the decision.

3.7.9.4.1 There is a significant risk (on a reasonable view) that the Relevant Procedure (and/or any purchase of goods, services and/or works resulting from it) will create serious adverse publicity for the Council.

3.7.9.4.2 Under the proposed contract for the purchase of goods, services and/or works expected to result from the Relevant Procedure, the Council would be required to deal with a particular supplier or provider on an exclusive basis.

3.7.9.5 Exceptions to obtaining any of the approvals required in Section 3.7.9

Only with the written consent of the Director responsible for the Procurement and Commissioning Service and the Chief Finance Officer (if they are not the same person).

### 3.7.10 The Procurement Board and Panels

#### 3.7.10.1. Composition of the Procurement Board:

- (a) Appointment and removal of Procurement Board members: from time to time in accordance with its approved terms of reference and its members must include the Chief Executive, the Chief Finance Officer and the Executive Directors.
- (b) How the Procurement Board is to conduct itself: As determined by the Procurement Board from time to time, acting reasonably and in good faith, and in any case, lawfully.
- (c) The Panels shall include Deputy Directors, Assistant Directors and other officers of the Council appointed or removed in accordance with its approved terms of reference.

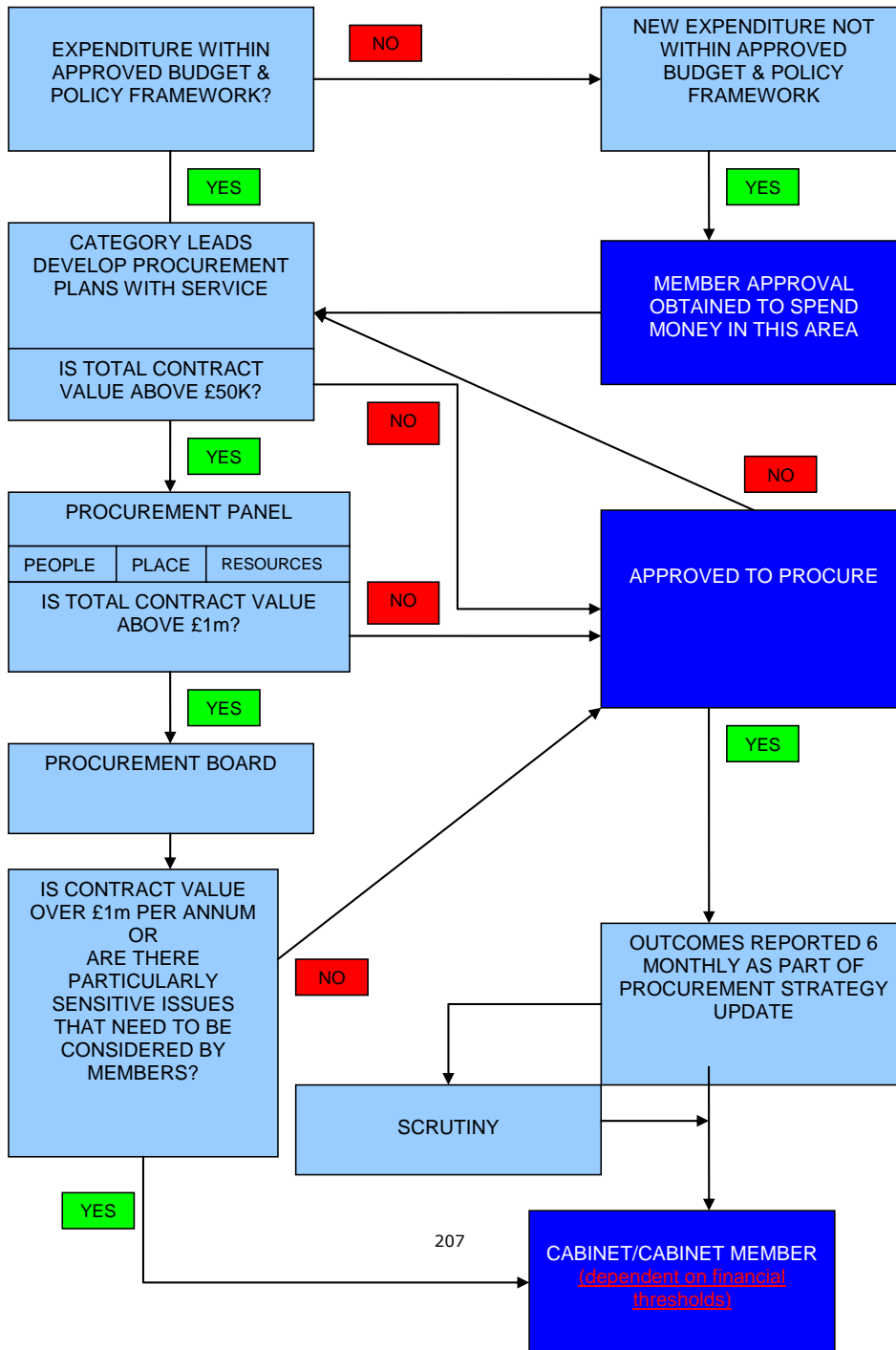
#### 3.7.10.2 The Procurement Board shall have the following powers:

- (a) To determine whether to approve or refuse any proposed Relevant Procedures which it has not otherwise delegated according to paragraph 3.7.9.3.;
- (b) to monitor compliance with contract rules and monitor spend and contracts; to achieve savings;
- (c) Status of a Panel in place from time to time shall be as a sub-committee of the Procurement Board;
- (d) To establish and dissolve the Panels or similar sub-committee;
- (e) To establish the composition of members of the Panels or similar sub-committee which must include Deputy Directors and/or Assistant Directors, including appointment and removal of members, including any alternates;
- (f) The conduct of the proceedings of the Panels or similar sub-committee from time to time;
- (g) Any act of the Panels or similar sub-committee (including any approval or refusal of a Relevant Procedure) shall be regarded as if it were the direct act of the Procurement Board itself;
- (h) To deal with expressions of interest from a relevant body exercising the right to challenge for a relevant service under Part 5, Chapter 2 of the Localism Act 2011;
- (i) To provide a six monthly report on the activities of the Procurement Board and Panels to Cabinet Member Portfolio Holder and an annual report to the Audit Committee; and
- (j) The Chief Finance Officer has the power to vary the terms of reference of the Procurement Board and Panels and the right to vary the Rules for Contracts.

3.7.10.3 The Panels shall have the following powers :

(a) (b) (d) (e) (g) (h) and (i) detailed in paragraph 3.7.10.2.

**PROCUREMENT GOVERNANCE**



### 3.7.11 Exceptions to Rules for Contracts

3.7.11.1 An exception to the Rules for Contracts is a permission to let a contract without complying with one or more of the Rules. An exception to Rules for Contracts may be granted subject to conditions. An exception cannot be granted where a breach of any UK or EU legislation would be incurred.

3.7.11.2 Only the Director responsible for the Procurement Service or his authorised deputy may grant an exception to these Rules for Contracts. Applications for exceptions must be made in writing to the Director responsible for the Procurement Service, and include the exception that is requested and the justification for the exception.

3.7.11.3 The Director responsible for the Procurement Service will keep a register of all exceptions to Rules for Contracts, which shall be available by appointment for inspection by members of the Council and the public. In April, an annual report on exceptions granted in the previous financial year will be presented to the Cabinet Member portfolio holder for Resources.

3.7.11.4 An application for an exception to Rules for Contracts to allow a contract to be let without genuine competition will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exception to Rules for Contracts. If an application is granted, the Director responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.

.3.7.115 Where an exception has been granted in line with these rules, the Director will seek a further exception if the value of the original exception has been exceeded or the time period granted for the exception has elapsed.

.3.7.116 An exception to the requirements to follow the tender or quotation procedure **may** be granted in the following circumstances:

- (a) an unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if the tender or quotation procedure were followed;
- (b) for justifiable technical reasons, the works, goods or services can be obtained from only one supplier;
- (c) acquiring goods or services from a different supplier would result in incompatibility with existing goods or service or disproportionate technical difficulties;
- (d) the proposed contract is an extension to or variation of the scope of an existing contract, if permitted by the public procurement legislation i.e. below the required EU limit, *unless* the existing contract provides for an extension;
- (e) the purchase of works of art, museum artefacts, manuscripts or archive collection items;



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- (f) there is a need to develop and influence the market by extending the range and provision of services, provided the contract is for a fixed term of no more than three years;
- (g) it is necessary to enable the continuation of a new service, development of which was initially grant-aided, provided the contract is for a fixed term of no more than three years;
- (h) value for money can be achieved by the purchase of used vehicles, plant or materials;
- (g) when a grant from a public body includes a recommendation as to the supplier or is time limited;
- (i) in furtherance of the Council's social enterprise policy, or other economic development aims, subject to the prevailing financial support limits for this type of activity and without breaching public procurement rules;
- (i) if there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another Rule for Contract;

3.7.11.7 An exception to Rules for Contracts is granted and separate authorisation is not required in the following circumstances:

- (a) placing an order with a single supplier under an existing corporate contract or framework agreement;
- (b) placing an order against a contract/framework agreement let by another Public Body where contracts have been let to allow collaboration, e.g. Eastern Shires Purchasing Organisation (ESPO), Central Buying Consortium (CBC, Buying Solutions, etc.
- (c) as part of a partnering contract that contemplates a series of contracts with a single supplier;
- (d) legislation requires the Council to let a contract differently from these Rules for Contracts;
- (e) for decision making on utilities contracts. Due to the volatile nature of utilities markets and the need for expedient decision making, authority has been delegated through the approval of these rules to the Director responsible for the Procurement Service in consultation with the Chief Finance Officer. If the Chief Finance Officer is also the Director responsible for the Procurement Service then the decision will be made by the Chief Finance Officer in consultation with the Chief Executive or his nominated representative. All utilities contracts will be let through the Procurement Service and in line with the procedures dictated by the Assistant Director Procurement.

### **3.7.12 Valuation of Contracts and Aggregation of Requirements**

3.7.12.1 The Director responsible for each contract must record an estimated value for the contract before any offers are sought.

3.7.12.2 The value of a contract is the total amount that the Council expects to pay for the contract, either in a single sum or periodically over time.

3.7.12.3 Contracts for the same works, goods or services must not be split into smaller, separate contracts to avoid compliance with these Rules for Contracts or the EU public procurement legislation. If it will achieve best value for money, contracts for the same or similar works, goods or services must be aggregated into a single contract of greater value, or be let as a series of contracts based on the appropriate process for the total value.

### **3.7.13 Duties of Directors and the Assistant Director Procurement**

3.7.13.1 The Director is responsible for ensuring that all expenditure involving procurement activity complies with the Rules for Contracts, in conjunction with the Assistant Director Procurement. He/she is also responsible for ensuring that contracts within his/her division are managed and operated within the terms of the contracts themselves.

3.7.13.2 The Assistant Director Procurement is responsible for maintaining a register of contracts and for providing an up-to-date copy of the register at the end of each financial year. Contracts for less than £10,000 or one off contracts need not be recorded in the register.

3.7.13.3 As soon as practicable after the Council's budget has been set and in any event before the end of March in each financial year, the Director must notify the Assistant Director Procurement of all contracts (including their values) that his/her division plans to enter into during the following financial year. This will enable the Assistant Director Procurement to publish the Council's Prior Information Notice (PIN) in accordance with the EU regulations. This has the benefit of reducing the EU tendering timescales.

3.7.13.4 The Director must use corporate contracts, where they are in place. To do otherwise would be unlikely to give value for money for the Council and may be in breach of the Public Contract Regulations.

3.7.13.5 If there is an in-house service available that operates as a trading unit, the Director must consider, in accordance with Value for Money principles, whether that service should be used or whether a contract should be let to an external provider, although all resource implications e.g. TUPE implications and/or redundancies for directly employed staff, must be considered as part of the best value assessment.

### **3.7.14 Selection of Procurement Route:**

3.7.14.1 When selecting the most appropriate procurement route to secure value for money, the Director, in consultation with the Assistant Director Procurement, shall adhere to the following principles:

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- (a) All practical options for contract packages and methods of procurement should be analysed and evaluated, with the object of selecting the option that most effectively ensures value for money is achieved. The preferred option must provide full, fair, transparent and open competition and be identified as the most economically advantageous bid.
- (b) The scope of contract packages should take into account cross-cutting themes and outcomes identified by strategic, policy and service reviews. Stakeholders within and outside the Council should be consulted about service standards and specifications and investigation of the market undertaken. Performance under any current contract should be appraised and prospective performance considered in the light of consultations and investigations.
- (c) The contract package should seek to stimulate diversity and innovation, enhance choice for service users and attract new suppliers.
- (d) Partnerships between the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services.
- (e) The requirements of the Common Commissioning framework defined under the Sustainable Community Strategy, with the objective of achieving a contract that best serves the needs of service users and contributes to sustainable development, whilst achieving value for money for the Council.

3.7.14.2 The Council is developing a *Compliant Procurement Process* which will replace the current Procurement Manual that sets out minimum requirements for reporting and decision-making with regard to contracts and the key stages and actions the Council requires major procurements to follow, including market assessment and analysis, user consultation, risk analysis and project planning and management. The Compliant Procurement Process will detail how partnership contracts should be let and minimum requirements for ongoing contract monitoring and management.

**3.7.15 Authority to enter into a contract:**

3.7.15.1 Officers may only enter into a contract if authority is delegated to them or by specific decision of the Council, the Cabinet or Cabinet Member or Procurement Board or the Panels.

3.7.15.2 Unless an officer has been given authority to enter into a contract, all contracts involving capital expenditure must be authorised by a specific decision of the Cabinet or a Cabinet member.

3.7.15.3 Unless an officer has been given authority to enter into a contract, all contracts involving revenue expenditure must be authorised by a specific item in the approved revenue budget for the relevant year. A specific item in the approved revenue budget is deemed to be an authority for the relevant Director to enter into a contract up to the value estimated.

3.7.15.4 All contracts will be let with the involvement of the Procurement Service in consultation with service users and technical experts.

**3.7.16 Specifications:**

3.7.16.1 The Director in conjunction with the Assistant Director Procurement must ensure that an appropriate specification is prepared for every contract, which sets out clearly the Council's requirements with regard to the works, goods or services to be supplied.

3.7.16.2 All works, goods and services must be specified by reference to European or national standards where appropriate.

3.7.16.3 Specifications should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the contract to be monitored and managed, and should build in a capacity for flexibility and innovation, to secure sustained improvements and the ability to meet changing local and national circumstances.

3.7.16.4 Where appropriate, specifications should identify and allocate the risks inherent in the contract.

3.7.16.5 If a contract may involve the transfer of employees (from the Council to a contractor or from one contractor to another), the tender documents should, if the contractor has assured confidentiality of personal information, include all relevant information relating to those employees.

3.7.16.6 The Director must obtain all necessary professional and technical advice and assistance in preparing a specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants or other third parties who assist in the preparation of a specification must not be invited to tender or quote for the contract.

**3.7.17 Contract procedures:**

17.1 If a corporate contract is in place for the supply of any works, goods or services, the Director must place orders under that contract. The Procurement Service publishes data to enable Directors to order from corporate contracts.

17.2 The Director in conjunction with the Assistant Director Procurement must establish whether the public procurement legislation applies to a proposed contract. If in doubt, the Legal Services will advise whether the legislation applies. When public procurement legislation does apply, the Director/Assistant Director Procurement must use the open or restricted procedure unless the Legal Services agrees the use of competitive dialogue or the negotiated procedure. Whenever possible, a competitive procedure must be adopted.

17.3 The Assistant Director Procurement will place all notices relating to contracts in the Supplement to the Official Journal of the European Union and will provide the statutory annual returns to HM Treasury of contracts let by the Council.

17.4 The Director need not obtain competitive quotations for contracts of less than £10,000 in value, but must demonstrate in any event that the Council is receiving value for money

(see the “Quick Reference Guide” Table at paragraph 3.7.3). Additionally all relevant documentation will need to be retained for audit or scrutiny purposes in line with Council policy.

### **3.7.18 Invitation to Formal Tender**

3.7.18.1 If the public procurement legislation applies to a contract, the selection of suppliers to be invited to tender for the contract must follow the requirements of that legislation.

3.7.18.2 If the public procurement legislation does not apply, and the estimated contract value is greater than £50,000 at least three potential contractors, who have expressed an interest, should be invited to tender. Where appropriate those invited to tender should include at least two local suppliers. The number of contractors invited to tender should ensure full competition is achieved. Potential contractors should be selected in the following way:

Placing an advertisement on the council's website or in one or more newspapers circulating in the West Midlands or in one or more newspapers or journals circulating among persons who undertake such contracts or sub-contracts. Responses to the advert may be supplemented by contractors appearing on a suitable approved list. The placing of the advertisement should aim to achieve maximum interest amongst contractors. If less than three contractors express an interest, The Director must agree to proceed, and the steps taken to try and obtain the minimum number of tenderers documented.

3.7.18.3 Companies expressing an interest in being invited to tender in response to a advertisement, must satisfy the Council as to their legal, financial and technical capacity (including their health & safety and equal opportunities policies) to undertake the contract by completing a pre-qualification questionnaire or tender document where the open procedure of the Public Contract Regulations is used, in a form approved by the Assistant Director Procurement.

3.7.18.4 The Assistant Director Procurement shall be responsible for ensuring that an “Invitation to Tender” procedure – that demonstrates public sector best practice – is available and adhered to, at all times.

### **3.7.19 Opening Formal Tenders**

3.7.19.1 The information obtained at the opening of tenders is confidential to those involved in the opening process and those directly involved in evaluation of the tenders. Confidentiality must be maintained and any breach reported to the Monitoring Officer.

For electronic tendering:

3.7.19.2 The tender opening process must be appropriate to the specific electronic software employed and its facilities for guaranteed receipt of tenders.

For paper based tendering:

3.7.19.3 Legal Services are responsible for marking the tender envelopes or parcels with the date and time of receipt; keeping tenders in a secure place until after the last date and time for receipt and for returning tenders that are received late or identify the sender.

3.7.19.4 Tenders must be opened one at a time by a member of the Legal Services team in the presence of a member of the Assistant Director Procurement's team. In all cases this must be an officer other than the officer running the tender process.

3.7.19.5 The Legal Services must number all tenders in the order they are opened and all persons present must initial them.

3.7.19.6 The representative of the Legal Services must record:

- (a) the works, goods or services to be supplied;
- (b) the name of each tenderer;
- (c) the amount of each tender or such other information as may be relevant to the procurement;
- (d) the date and time of opening of each tender;
- (e) the names of all persons present at the time of opening.

The member of the Assistant Director Procurement's team opening the tenders must certify the record as correct.

### **3.7.20 The Quotation Procedure**

3.7.20.1 For contracts of under £50,000 in value, suppliers to be invited to quote may be selected from an appropriate approved list or advertised on the Council's website.

3.7.20.2 The Authorising officer must satisfy him/herself as to the legal, financial and technical capacity of suppliers invited to quote to undertake the contract for the Council, through seeking appropriate in house professional advice, and that they will provide value for money.

3.7.20.3 A sufficient number of suppliers must be invited to quote to ensure genuine competition. The minimum number is three.

3.7.20.4 The Assistant Director Procurement shall be responsible for all procedural aspects of seeking quotations, ensuring that probity and proper public accountability standards are in operation. Monitoring shall be carried out periodically by either the internal or external auditor.

### **3.7.21 Acceptance of Formal Tenders and Quotations**

3.7.21.1 Where expenditure has been approved through the budget setting process, the Procurement Board has given approval to proceed and these Rules for Contracts have been followed, for contracts over the EU threshold, the Procurement Board or Panels shall receive notification of the contract award.

3.7.21.2 For contracts over £50,000, contracts are to be awarded under the “most economically advantageous” criterion (see para. 3.7.21.3) the Assistant Director Procurement shall require a written report from the responsible officer requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in writing and presented to the relevant Panel. In extreme urgency the Assistant Director Procurement, may agree a verbal report from the responsible officer with a written report being signed off by the Assistant Director Procurement within a fortnight of this meeting. All written reports will be stored in line with the document retention policy.

3.7.21.3 Tenders or quotations must be evaluated on the basis of which is most economically advantageous to the Council. When using Public Contract Regulations 2006, the criteria for evaluation must be set out in the invitation to tender or equivalent document depending on which procedure is used, in descending order of priority, with the weightings to be given to them. The criteria may also be set out in the OJEU and public notices. Whole life and environmental costs may be included in criteria for evaluation.

### 3.7.22 Electronic tendering and quotations

The Assistant Director Procurement is responsible for the procedure for these processes.

- (a) tenders and quotations may be invited electronically, provided paper copies of any documents that cannot be sent on-line are sent by post and paper copies of all documents are sent to suppliers who do not specify an e-mail address for receipt of tenders or quotations. In selecting suppliers to be invited to tender or quote, the Assistant Director Procurement must not discriminate against suppliers who do not have facilities for receiving invitations by e-mail. Where the e tendering system is the only process being used support must be found for suppliers in this category.
- (b) invitations to tender and quotes may be submitted electronically through the approved e tendering system. Where electronic submissions are made outside of the approved system, submissions must be made after the official opening deadline, and they must be supported by paper copies of all invitation documents and formally opened under the process described in section 3.7.19 of this document.
- (c) the procedure will also include arrangements for e-auctions.

### 3.7.23 Amendments and alterations to tenders and quotations

3.7.23.1 Amendments to invitation to tender or invitation to quote documents, made after the invitations have been sent out, must be clearly headed “Tender Amendment” or “Quotation Amendment” as appropriate and sent to all suppliers who have been invited to tender or quote. If there is more than one amendment, they should be numbered consecutively. Amendments should be sent out in sufficient time to allow suppliers to adjust their tenders or quotations as appropriate.

3.7.23.2 A supplier’s tender or quotation is his offer to the Council, which the Council may accept as it stands. Once a tender or quotation has been submitted, alterations will only be accepted through formal clarifications under the restricted procedure; or negotiations under the Competitive Dialogue process of the Public Contract Regulations 2006.

3.7.23.3 In all other situations, if a supplier attempts to alter his offer after the last date for receipt of tenders or quotations, he must be given the opportunity to stand by or withdraw his original offer. Correction of an obvious arithmetical error, which would reduce the price to be paid by the Council or increase the price to be paid to the Council, may be accepted.

3.7.23.4 Where performance specifications are used, a tender or quotation that is expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of contract may be treated as non-compliant and rejected. This does not prevent the Council inviting variant bids (that is an invitation to submit an alternative bid that could then be considered as being to the Council's benefit provided that the condition applying to the mandatory reference bid is followed). If variant bids are invited, suppliers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender or invitation to quote, so that all bids may be compared fairly.

3.7.23.5 Where outcome based specifications are used it will be for the bidder to decide the method of service delivery. Tenders or quotations will be evaluated fairly against published evaluation criteria.

3.7.23.6 A properly approved and EU-compliant competitive dialogue process or negotiated procedure will normally result in one or more Best and Final Offers as a result of negotiation with selected bidders. No alteration to the Best and Final Offer, in terms of outcomes or contract price is permitted without the specific approval of the Monitoring Officer.

3.7.23.7 Before a tender or quotation has been accepted, the Assistant Director Procurement may ask all tenderers or suppliers to maintain their tendered or quoted prices for a longer period. Tenders and quotations should in any event remain open for acceptance for a period of (ninety) days from the last date for receipt of tenders or quotations, or such other period as the Assistant Director Procurement considers appropriate, and the form of tender or quotation should make this clear.

### 3.7.24 Contract extensions

3.7.24.1 Where extensions to contracts have been included in the original advert, tender documentation and contract, subject to Panel/Procurement Board approval, the extensions may be agreed; where performance is satisfactory and the original contract terms are to continue (including price variations in line with the original contract) through the issuing of a contract change note (templates to be issued by the Assistant Director Procurement). The contract change note must be kept with the original contract in line with the document retention policy.

3.7.24.2 Over £50,000 and below the EU threshold, if a contract extension is proposed where the terms and conditions of the original contract will be changed; the relevant Panel shall require a written report from the responsible officer requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in writing. In extreme urgency the Panel may agree a verbal report from the responsible officer, with a written report being signed off by the Panel within a fortnight of this meeting. Once approval is received a contract change note will be issued and kept with the original contract documentation. All written reports will be stored in line with the document retention policy.



If a contract is under seal a short supplemental deed may be required and this will be dealt with on request to Legal Services.

### **3.7.25 Form of Contract**

3.7.25.1 Legal Services will decide whether a contract over the EU threshold in value is to be executed as a deed under the seal of the Council or under hand as a simple contract. As a general rule, works contracts, and high value contracts (exceeding £150,000) will be executed as deeds under the Council's seal.

3.7.25.2 All contracts made as deeds must be made under the Council's Common Seal, witnessed in accordance with the relevant Standing Order of the Council's Rules of Procedure (Standing Orders) by the Chief Executive or such other person appointed by the Council.

3.7.25.3 A contract under seal is retained for twelve years in Resources Directorate to enable any action to be taken under it, if required

3.7.25.4 Simple contracts of between £10,000 and the £150,000 in value must be signed for and on behalf of the Council by the Assistant Director Procurement or an authorised deputy.

### **3.7.26 Contract administration and management**

3.7.26.1 The Assistant Director Procurement shall arrange for publication of a contract award notice, no later than 45 days after contract award, if appropriate, and shall keep a register of the notified information, which shall be available for inspection by appointment by any Member of the Council, internal and external auditors and any member of the public.

3.7.26.2 The Assistant Director Procurement shall be responsible for ensuring that a procedure on "Contract Administration and Management" is made available to all officers and partners managing contracts on the Council's behalf. This will include guidance on managing partnering or partnership contracts explaining techniques such as target costing and "open book".

### **3.7.27 Prevention of fraud and corruption**

3.7.27.1 All purchases, contracts and income covered by these rules must be let in line with the Council's Anti fraud and Corruption Policy and Strategy.

3.7.27.2 If an officer of the Council has a pecuniary interest, in a contract or proposed contract, he/she must in accordance with Section 117 of the Local Government Act 1974 register the interest with the Monitoring Officer and declare it at any meeting at which the officer is present and the contract is discussed and thereafter leave the room and take no further part in the discussion.

3.7.27.3 If an officer of the Council has a personal or non pecuniary interest in a contract or proposed contract he/she must declare that interest to their Director as required by the Council's Code of Conduct for Employees.

3.7.27.4 If a Member of the Council has a disclosable pecuniary interest or other relevant interest in a contract as defined in the Members Code of Conduct, the member must take such action as is required by that Code.

3.7.27.5 A contract must be terminated immediately, and any losses to the Council arising from the termination recovered from the contractor, if the contractor, or anyone acting on his behalf:

(a) offers or gives or agrees to give any member or officer of the Council any gift, benefit or consideration of any kind or value as an inducement or reward with regard to the contract; or

(b) commits any offence under the Bribery Act 2010 or section 117 of the Local Government Act 1972.

A declaration to this effect must be contained in all invitations to tender or quote.

3.7.27.6 The attention of officers is drawn to the Council's Code of Conduct, Whistleblowing policy, Disciplinary Policy and Procedures and the Code of Conduct for Employees. Non-compliance with these Rules for Contracts constitutes grounds for disciplinary action.

3.7.27.7 All of the requirements in paragraphs 3.7.27.1 to 3.7.27.6 above will apply to any third party acting on the Council's behalf in a contractual situation e.g. consultants and community representatives on evaluation panels.

### 3.7.28 Freedom of Information Act 2000

3.7.28.1 When entering into contracts the Council will refuse to include contractual terms that purport to restrict the disclosure of information held by the Council and relating to the contract beyond the restrictions permitted by the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the Council will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

3.7.28.2 When entering into contracts with non-public authority contractors, the Council may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. As recommended by the Lord Chancellor's Department, the Council will reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Council will investigate the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. The Council will take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act, as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Commissioner. When entering into the above contracts the Council will make it clear that these restrictions apply to sub-contractors also and that the Secretary of State has the powers to designate them as 'public bodies' for the purpose of making them comply with the Act.

3.7.28.3 The Council will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Lord Chancellors Department indicates that the

exemption provided for in section 41 only applies if information has been obtained by a public authority from another person and the disclosure of the information to the public, otherwise than under the Act, would constitute a breach of confidence actionable by that, or any other person.

28.4 It is for the Council to disclose information pursuant to the Act, and not the non-public authority contractor. The Council will take steps to protect from disclosure by the contractor information that the authority has provided to the contractor (which would clearly be exempt from disclosure under the Act) by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the Council will not impose terms of secrecy on contractors.

28.5 The Assistant Director Procurement will be responsible for advising on the application of the Freedom of Information Act and contracts, in conjunction with the Council's Corporate Information Governance Manager, where circumstances arise that are not specifically covered by Council policy. He/she will also be responsible for updating procedure following any case law that materially amends or augments Council policy in this area.

#### 3.7.29 Management of Risk in Contracts:

For contracts of strategic importance a risk register will be drawn up for the contract letting process. Once the contract is awarded, a risk register to cover the implementation and successful ongoing management of the contract will be drawn up by the Head of Service or authorised deputy. This risk register will be monitored in line with the corporate guidance on risk throughout the life of the contract.

## 3.8 **Employment Procedure Rules**

### 3.8.1 **Recruitment and Appointment**

#### 3.8.1.1 *Recruitment Policy*

Recruitment of employees will be in accordance with the Council's adopted recruitment and appointment policy and the Council will recruit from the widest possible field and will appoint on the sole criteria of merit, except where race and gender is a genuine occupational qualification, or where the Council seeks to avoid redundancy by identifying alternative employment opportunities or there are exceptional circumstances.

#### 3.8.1.2 *Legislation*

The Council's Recruitment and Selection Policy and Procedures are governed by extensive legislation particularly the laws relating to discrimination. The Employment Procedure Rules reflect existing statutory provisions and in particular the Local Authorities (Standing Orders) (England) Regulations [1993 and 2001](#) and are based on the model provided by the Secretary of State for Communities and Local Government.

#### 3.8.1.3 *Declarations*

These will be considered as follows:-

- The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are related to or a partner of an existing Councillor or an employee of the Council, or the partner of such persons.
- A candidate who fails to disclose such a relationship will be disqualified for the appointment and if appointed will be liable to dismissal without notice.
- Every Member and employee of the Council at JNC for Chief Officers level will disclose to the Chief Executive any relationship known to him/her to exist between themselves and any person they know is a candidate for an appointment with the Council.
- No candidate so related to any Member or an employee will be appointed to the same service unit without the authority of the Chief Executive or relevant Chief Officer.
- Any employee who develops a personal relationship with a Councillor, or with another employee in the same service, or any employee covered by the JNC for Chief Officers who develops a personal relationship with any other employee, will disclose that relationship to his/her manager.
- The purpose of such disclosures is to ensure openness, probity, equality and effectiveness of management and Councillor/employee relationships.

3.8.1.4 *Seeking support for an appointment*

- Subject to Rule 3.8.1.5, the Council will disqualify any applicant who directly or indirectly seeks the support of any Member of the Council for any appointment with the Council.
- Subject to Rule 3.8.1.5 below, no Member of the Council will seek support for any person for any appointment with the Council.
- The content of this Rule will be included in any recruitment information.

3.8.1.5 *References*

Nothing in Rule 3.8.1.4 above will preclude a Member of the Council from giving a written reference for a candidate for submission with any application for employment. Any member giving such a reference will take no part in the recruitment process.

3.8.2 **Recruitment of Chief Executive, Chief Officers and "Deputy Chief Officers"**

3.8.2.1 For the purpose of these employment procedure rules, a Chief Officer or "Deputy Chief Officer" is as defined in Sections 2(6)(7) and (8) of the Local Government and Housing Act 1989. The definition of a "Deputy Chief Officer" means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more Chief Officer. This definition applies to a number of senior employees in the City Council, as determined by the Chief Executive, who for the purpose of these procedure rules, are designated "Deputy Chief Officers"

3.8.2.2 Where the Council proposes to appoint a Chief Executive, Chief Officer or "Deputy Chief Officer" and it is not proposed that the appointment be made exclusively from among their existing employees, the Council will:

~~Draw up a statement specifying~~

- ~~Draw up a statement specifying:~~the duties of the employee concerned; and any qualifications or qualities to be sought in the person to be appointed.
- ~~To~~ make arrangements for the post to be advertised in such a way that is likely to bring it to the attention of the persons who are qualified to apply for it; and
- make arrangements for a copy of Rule 3.8.1.4 to be sent to any person on request.

3.8.2.3 The ~~recruitment and~~ appointment of employees other than those specified in 3.8.3 and 3.8.4 (other than assistants to political groups) is the responsibility of the Chief Executive or his/her nominee.

3.8.2.4 No appointments except Chief Executive, Chief Officer or "Deputy Chief Officer" (as defined in Rule 3.8.2.1 above) (other than assistants to political groups) may be made by any Member or Members of the Council.

**3.8.3 Selection Process for Chief Executive and Chief Officers and "Deputy Chief Officers"**

3.8.3.1 Detailed arrangements with regard to the recruitment processes and selection techniques to be used, any additional procedures to those set out in these rules or the need for external advice will be decided by the Chief Executive or his/her nominee (unless excluded) on the advice of the appropriate senior HR Manager (unless excluded).

3.8.3.2 Any existing employee who is a candidate or a potential candidate or has any other personal interest in the recruitment process is excluded from taking any part in the process. In such circumstances Strategic Management Board will nominate a suitable replacement for that postholder.

3.8.3.3 The Chief Executive or his/her nominee (unless excluded) and the appropriate senior HR Manager (unless excluded) will identify all applicants who meet the requirements of the post, as detailed in the statement referred to in Rule 3.8.2 above, who will progress to the next stage of the selection process.

3.8.3.4 Applicants to posts of Chief Executive, Chief Officer and "Deputy Chief Officer" (~~as defined in Rule 3.8.2 above~~) will then go through a screening and/or assessment process by a selection panel which will select candidates to go forward to the Appointments Panel. The selection panel will comprise of the following:-

- The appropriate Cabinet Member(s), responsible for the service or services concerned.
- The Chief Executive or her/his nominee.
- The appropriate Senior Human Resources Manager or her/his nominee.
- For an appointment other than a Member of the ~~Management Board~~Strategic Management Board, the Member of the ~~Management Board~~Strategic Management Board responsible for the post.
- One other Member of the ~~Management Board~~Strategic Management Board nominated by the Chief Executive at his/her discretion.
- An appropriate professional advisor.

3.8.3.5 Where no suitable qualified person has applied, arrangements will be made to re-advertise the post in accordance with the procedure set out in Rule 3.8.2.

**3.8.4 Appointment of the Chief Executive**

3.8.4.1 The Appointments Panel for the appointment of any Chief Executive will be established by full Council on a recommendation from the Cabinet.

3.8.4.2 The Appointments Panel for the appointment of the Chief Executive must include at least one Member of the Cabinet and will comprise at least the following:-

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- the Leader and the Deputy Leader of the Council or their respective nominees.
- the Chair of the Scrutiny Co-ordination Committee or nominee.
- Such other Opposition Member(s) of Scrutiny to ensure the political balance.

3.8.4.3 The full Council will approve the appointment of the Chief Executive following the recommendations of an Appointments Panel.

3.8.4.4 The Appointments Panel will be advised by any relevant Chief Officer(s) (or Senior Manager) or external professional advisers as nominated by the Cabinet on advice from any relevant Chief Officer (for the Chief Executive or Senior Manager).

3.8.4.5 The Quorum for the Appointments Panel for the Chief Executive will be 3 Members.

**3.8.5 Chief Officer and "Deputy Chief Officer" Appointments**

3.8.5.1 All Chief Officers or "Deputy Chief Officers" ~~(as defined in Rule 3.8.2 above)~~ will be appointed by an Appointments Panel.

3.8.5.2 The Appointments Panel should comprise the following:-

- The Leader and/or Deputy Leader of the Council or their respective nominees;
- The appropriate Cabinet Member(s) having responsibility for the area of service concerned, determined by the ~~Executive Director, Director of Customer and Workforce Services in~~ Resources in consultation with the Leader of the Council or her/his nominee;
- The Chair of the Scrutiny Co-ordination Committee or her/his nominee;
- Such other opposition non-Cabinet Member(s) to ensure the political balance.

3.8.5.3 The Appointments Panel will be advised by the Chief Executive and any other relevant Chief Officer(s) (or Senior Managers) or external professional advisers as nominated by the Chief Executive.

3.8.5.4 The appointment of the Monitoring Officer and Chief Finance Officer will be approved by full Council following a recommendation of an Appointments Panel.

3.8.5.5 The Assistant Director (~~Human Resources and Workforce Services resources~~) will ensure that all appropriate Criminal Records Bureau (CRB) checks are obtained before an appointment is confirmed.

3.8.5.6 The Quorum for the Appointments Panel for Chief Officers or "Deputy Chief Officers" ~~(as defined in Rule 3.8.2 above)~~ will be 3 Members.

**3.8.6 Offer of Appointment of Chief Officers and "Deputy Chief Officers"**

3.8.6.1 Any offer of employment to any post of Chief Officer or "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~, will only be made by an Appointments Panel where no well founded objection from any Member of the Cabinet has been received.

3.8.6.2 Before an Appointments Panel considers an appointment to Chief Officer or "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~, the Executive Director, Resources ~~Director of Customer and Workforce Services~~ will be notified of the shortlisted candidates names and any other relevant particulars.

3.8.6.3 The Executive Director, Resources ~~Director of Customer and Workforce Services~~ will notify all Cabinet Members of the names, the relevant particulars and the period within which any objection to any of the shortlisted candidates can be made (this will be a minimum of three working days).

3.8.6.4 Any objection by a Cabinet Member must be notified to the Leader who will respond to the Executive Director, Resources ~~Director of Customer and Workforce Services~~ on behalf of the Cabinet.

3.8.6.5 No appointment can be made until the expiry of the objection period and notification is received from the Leader that neither s/he nor any Member of the Cabinet objects to the appointment.

3.8.6.6 If an objection is received, the Executive Director, Resources ~~Director of Customer and Workforce Services~~ will notify the Appointments Panel and the appointment can only be made if the Appointments Panel determines that the objection is not material or well-founded.

3.8.6.7 The terms "Chief Officer" and "Deputy Chief Officer" are the statutory definitions of those terms and these requirements are compulsory.

**3.8.7 Dismissal**

3.8.7.1 Members of the Council will not be involved in the dismissal of any employee other than Chief Executive, Chief Officer or "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~ except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's Disciplinary, Capability and related Procedures as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

**3.8.8 Objections to Dismissal**

3.8.8.1 Any dismissal from any post of Chief Executive, Chief Officer or "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~ will only be made where no well founded objection from any Member of the Cabinet has been received.

3.8.8.2 When any person is minded to dismiss any Chief Officer or "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~ the Executive Director, Resources ~~Director of Customer and Workforce Services~~ will be notified of the proposed dismissal and any other particulars relevant to the dismissal.



3.8.8.3 The ~~Executive Director, Resources Director of Customer and Workforce Services~~ will notify all Cabinet Members of the name, the relevant particulars and the period within which any objection to the proposed dismissal is to be made.

3.8.8.4 Any objection by a Cabinet Member must be notified to the Leader who will respond to the ~~Executive Director, Resources Director of Customer and Workforce Services~~ on behalf of the Cabinet.

3.8.8.5 If no objection is received within the specified period or if the Leader has stated that neither he nor any Member of the Cabinet objects to the proposed dismissal, the dismissal can be made.

3.8.8.6 If an objection is received, the ~~Executive Director, Resources Director of Customer and Workforce Services~~ will notify the person proposing to make the dismissal and the dismissal can only be made if that person determines that the objection is not material or well-founded.

#### 3.8.9.1 **Suspension of Chief Executive, Monitoring Officer and Chief Finance Officer**

The Chief Executive, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than 2 months, [without being recommended for extension by an independent person](#).

#### 3.8.9.2 **Independent Person**

No disciplinary action may be taken in respect of any of these employees except in accordance with a recommendation in a report made by a designated independent person.

3.8.9.3 Members of the Council will not be involved in a disciplinary action against any officer below "Deputy Chief Officer" ~~(as defined in Rule 3.8.2 above)~~ except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's Disciplinary, Capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

3.8.9.4 For the avoidance of doubt, any disciplinary action against the Chief Executive, Monitoring Officer and Chief Finance Officer will be conducted strictly in accordance with the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 and any disciplinary action against Chief Officers and "Deputy Chief Officers" ~~(as defined in Rule 3.8.2 above)~~ will be conducted strictly in accordance with the Joint Negotiating Committee for Chief Officers [terms and conditions of service](#).

#### 3.8.10 **Assistants to Political Groups**

3.8.10.1 The appointment of any assistant to a political group will be made in accordance with the statutory provisions in that regard.

3.8.10.2 The appointment of an assistant to a political group will be made in accordance with the wishes of that political group.

3.8.10.3 There will be no political assistants unless such a post is allocated to all political parties that are so entitled. Any party that does not qualify may not have one. Before making any appointment to the post of political assistant, the Council must decide which group(s) would be entitled to such a political assistant.

### 3.8.11 **Interests in Employee Negotiations**

Any Councillor who is in the employment of any local authority or who is an official or an employee of a Trade Union whose Members include employees of the Council is prohibited by law from representing the interests of the Council in any negotiations with respect to the terms and conditions of Council employees. Nothing in this paragraph will prevent any member from taking part in any Appeal Panel not involving terms and conditions of service.

### 3.8.12 **Human Resource Matters**

#### **Management of Employees**

3.8.12.1 All Members of the ~~Management Board~~Strategic Management Board will be accountable to the Cabinet for the management of their Directorates or Departments.

3.8.12.2 In fulfilling this management role, all Members of the ~~Management Board~~Strategic Management Board will comply with the City Council's human resource policies with regard to recruitment, selection and employment of employees, as may be agreed from time to time by the Cabinet.

3.8.12.3 All senior Managers are responsible for the effective recruitment, development and promotion of a workforce which is representative of the community and provides training and, if appropriate, adaptations for under-represented groups.

3.8.12.4 All employment policy and precedent advice to an Appeal Panel or member level dispute panel will be provided by the ~~Assistant Director (Human Resources)~~Assistant Director (HR and Workforce Services) or his/her nominee.

### 3.8.13 **Proposals with Human Resource Implications**

3.8.13.1 Any proposal to establish or change policy must be supported by a written report to the appropriate Cabinet Member by the relevant Member(s) of the ~~Management Board~~Strategic Management Board.

3.8.13.2 The ~~Assistant Director (Human Resources)~~Assistant Director (HR and Workforce Services) must report any breaches of the City Council's human resources policy, which may jeopardise the sound management of human resources within the City Council.

3.8.14 **Human Resources Managers**

3.8.14.1 The ~~Assistant Director (Human Resources)~~Assistant Director (HR and Workforce Services) will, in consultation with each Member of the ~~Management Board~~Strategic Management Board, designate an Employee as Human Resources Manager to help each Member of the ~~Management Board~~Strategic Management Board ensure compliance with the human resource policies of the City Council.

3.8.14.2 Decisions of any Appointments Panel or Appeal Committee are not subject to call-in.

### 3.9 **The Petitions Scheme**

#### 3.9.1 **General**

3.9.1.1 The Council welcomes petitions and recognises that these are one way in which citizens of Coventry can raise concerns.

3.9.1.2 The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition and it has at least 5 signatories on it.

3.9.1.3 Petitions can be submitted by people who live, work or study in Coventry, or sponsored by a Councillor on their behalf. Where a petition is presented without a Councillor sponsor, ward Councillors will be offered sponsorship of the petition.

3.9.1.4 Petitions can be submitted in two ways:  
i) on paper; a recommended form for use by petition organisers is available on the City Council's website ([www.coventry.gov.uk](http://www.coventry.gov.uk)) at <http://www.coventry.gov.uk/downloads/download/1524/petitions>, and  
ii) electronically via the Council's e-Petition facility (<http://www.coventry.gov.uk/info/10095/petitions>)

3.9.1.5 Paper petitions should be sent to the Petitions Officer:  
**City Solicitor and** Assistant Director, **Legal and** Democratic Services  
Customer and Workforce Services  
Coventry City Council  
Council House  
Earl Street  
Coventry  
CV1 5RR

#### 3.9.2 **Guidelines for Submitting a Petition**

3.9.2.1 Petitions submitted to the Council must include:-  
• The topic being addressed and  
• The action required from the Council and  
• At least 5 signatories who live, work or study in Coventry

3.9.2.2 Petitions should be accompanied by contact details including an address for the Petition Organiser. This is the person the Council will contact to explain how it intends to respond to the petition. This can be, but does not have to be, a Councillor. That person will need to indicate which personal data can be published on the Council's website in order to enable the Council to meet its obligations under the Data Protection Act 1988. If the petition does not identify a Petition Organiser, signatories to the petition will be contacted, starting with the first signatory, to agree who will act as the Petition Organiser.

3.9.2.3 In the period immediately before an Election or referendum the Council may need to

deal with the petition differently – if this is the case the Council will explain the reasons and discuss the revised timescales which will apply

### **3.9.3 Exclusions**

- 3.9.3.1 The general principle is that the Council will consider all petitions submitted but petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.
- 3.9.3.2 Where applicable, the Council will contact the Petition Organiser to discuss with them the issues and advise on how the petition might be made acceptable.
- 3.9.3.3 Where the Petitions Officer considers that a petition should be rejected for any of the above reasons, the matter should be referred for adjudication to the next available Cabinet meeting. This will be in private, if appropriate. In urgent cases the Monitoring Officer will consult with the Chief Executive, the Council Leader and the leader of the principal opposition Group to resolve the matter
- 3.9.3.4 The Council will not accept petitions dealing with any matter which has been considered by the Council within the previous 6 months. The exception to this would be where there has been a material change affecting the topic of the petition. The Petitions officer shall consult with the Council Leadership before accepting such petitions.

### **3.9.4 Petitions submitted or sponsored by a Councillor**

- 3.9.4.1 Councillors may submit a petition as Petition Organiser or support an existing petition, acting as its 'Sponsor'.
- If a Councillor presents a petition to a meeting of the City Council the Councillor submitting the petition will be entitled to speak for two minutes
  - If a Councillor presents a petition to the Cabinet or appropriate Cabinet Member, the Councillor submitting the petition will be entitled to attend the meeting to present the petition and entitled to speak for two minutes in addition to the speaking time for the petition organiser.
  - If a Councillor presents a petition to either the Planning or the Licensing and Regulatory Committee, that Committee's rules with regard to speaking and responding will apply.
- 3.9.4.2 Where two or more Councillors present the same petitions, both Councillors will be entitled to speak for 2 minutes.

### **3.9.5 Council Action on Receipt of a Petition**

- 3.9.5.1 A written acknowledgement will be sent to the Petition Organiser within five working days of receiving the petition (unless the Council is considering

excluding the petition in accordance with 3.9.3 above).

3.9.5.2 Details of the petition will be sent to the relevant ward Councillors. For citywide petitions, all Councillors will be notified. Any Councillor wishing to act as 'Sponsor' for a petition will need to contact the Petition Organiser and seek their agreement, and then inform the Petitions Officer. The Councillor's name will be added to the Petition Register. Both the Petition Organiser and a Sponsor will receive correspondence relating to the petition. Where the Petition Scheme states that the Petition Organiser will be informed, the Sponsor will also be informed.

3.9.5.3 The Petitions Officer will check that the petition complies with the requirements of the scheme and then publish details of the petition on the Council's website. This will be updated in the petitions Register. The details of the petition will be published within ten working days of receipt.

### 3.9.6 **How the Council will respond to Petitions**

3.9.6.1 When the Council accepts a petition, (other than those presented by a Councillor at full Council) the Petitions Officer will check which of the five different types of petitions apply:

- i. A petition requiring Council debate (section 3.9.7)
- ii. A petition calling a senior officer to account (section 3.9.8)
- iii. A petition which relates to a current Planning application (section 3.9.9)
- iv. A petition which relates to a Licensing or Regulatory matter (section 3.9.9)
- v. Other petitions (section 3.9.10)

3.9.6.2 When dealing with petitions the Council may consider one or more of the following responses :-

- Taking the action requested in the petition
- Taking no further action
- Referring the petition to Cabinet, a Cabinet Member or relevant Committee
- Referring the petition for consideration by the Council's Scrutiny Boards
- Referring the petition to another organisation
- Holding an enquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with the petitioners
- Calling a referendum
- Writing to the Petition Organiser setting out the views of the Council about the request in the petition.
- Any other appropriate action

3.9.6.3 Where the issue is one on which the Council Executive are required to make the final decision, the Council will decide whether to make recommendations

to inform that decision. The Petition Organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

3.9.6.4 If the petition is a statutory petition or relates to a matter where there is already an existing right of appeal, such as Council Tax banding or non-domestic rates, other procedures will apply and the petition will not be routed in any of the four ways above by the Petitions Officer.

3.9.6.5 In all cases the Council will advise the Petition Organiser of the action it has taken and will publish the outcome on the City Council website ([www.coventry.gov.uk](http://www.coventry.gov.uk))

### 3.9.7 A Petition Requiring Full Council Debate

3.9.7.1 If a petition is supported by 15,000 or more people it will be debated by a Full Council meeting when all Councillors can attend. The Council will endeavour to consider the petition at its next available meeting, although on occasions this will not be possible and the matter will be passed to the next Full Council meeting.

3.9.7.2 The Petition Organiser and Sponsoring Councillor(s) will each be allowed 3 minutes to present the petition at the Full Council meeting and the petition will then be discussed by Councillors – there is no time limit set for this.

3.9.7.3 The Council will decide how to respond to the petition at this meeting and may take any of the actions described at paragraph 3.9.6.2

### 3.9.8 Petitions Requiring Attendance by a Senior Council Officer

3.9.8.1 If a petition asks for a Senior Council Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job, the petition must contain at least 10,000 signatures. Those senior officers that can be called to give evidence are as follows:-

- Chief Executive
- ~~Executive Director, Resources~~
- ~~Executive Director, People~~
- ~~Executive Director, Place~~
- ~~Director of Public Health~~
- ~~Assistant Chief Executive~~
- ~~Director of Customer and Workforce Services~~
- ~~Director of City Services and Development~~
- ~~Director of Community Services~~
- ~~Director of Children, Learning and Young People~~
- ~~Director of Finance and Legal Services~~
- ~~Director of Strategic Planning and Partnerships~~
- The Monitoring Officer

3.9.8.2 Only these officers can be called to give evidence under this section of the petition

scheme.

3.9.8.3 If a petition has the requisite number of signatures, the Council's Scrutiny Coordination Committee will decide which of the Council's Scrutiny Boards, the senior officer will be asked to attend before. The Scrutiny Co-ordination Committee may decide that it is better for a different officer to give evidence and may also decide to call the relevant Councillor to attend the meeting.

3.9.8.4 Scrutiny Board members will ask the questions at the meeting, but the Petition Organiser may suggest questions to the Chair of the Committee by contacting the Petitions Officer up to three working days before the meeting.

3.9.9 **Petitions which relate to matters by Planning Committee and Licensing and Regulatory Committee**

3.9.9.1 Petitions relating to planning, licensing or regulatory matters will be referred to the respective Committee by the Petitions Officer and proceed in accordance with the rules of procedure relating to that Committee.

3.9.9.2 In the case of a petition that relates to a particular application, the petition will be considered at the same time as the application rather than within a period of two months. Any petition relating to a planning or licensing issue, for which an application has not been received within a 12 month period and where there is no on-going process, will automatically be considered by the relevant Cabinet Member and the petition put on file in planning or licensing for future reference.

3.9.9.3 In relation to the receipt of petitions to Planning Committee, only those petitions received by 12.00 noon on the day before the meeting will be treated as a petition, with the Petition Organiser ( including any Councillor presenting the petition) and the applicant (or their agent/representative) being invited to attend and speak at the meeting; and that any 'petition' received after this deadline be treated as a 'late representation' and summarised by the Development Manager on the 'late representations report' which is tabled at the meeting.

3.9.9.4 At Planning Committee, in line with the public speaking scheme, the length of the Petition Organiser's speech will be limited to three minutes. In addition, the applicant (or their agent/representative) will have the right of reply when a petition is presented in respect of a Planning Application. The Chair of the Planning Committee will have the discretion to ensure that any right of reply by an applicant (or their agent/representative) in response to a petition spokesperson's speech (which is limited to three minutes) will be of a proportionate amount of time.

3.9.10 **Other Petitions**

3.9.10.1 If a petition has at least 5 but less than 15,000 signatures on it, the Petitions



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Officer will review the content of the petition and decide whether the petition should be addressed to Full Council, Cabinet or Cabinet Member. If the Petition has been presented by a Councillor as the Petition Organiser, then the Councillor will be able to present the Petition.

- 3.9.10.2 Petitions can be presented to Full Council by a Councillor but will not be debated by them. Instead Full Council will refer the petition to the relevant Cabinet, Cabinet Member or Committee to deal with the matter.
- 3.9.10.3 The Petitions Officer will notify the Petition Organiser which Cabinet/ Cabinet Member/ Committee the matter has been referred to and advise them of the date of the meeting when the matter will be considered. The Petitions Officer will also notify the relevant Ward Councillor/s. If the Petition Organiser is a Councillor, he or she will not be entitled to vote at any meeting unless she/he is a member of the Cabinet or Committee [or the Cabinet Member concerned].
- 3.9.10.4 The Petition Organiser (including any Councillor as Petition Organiser) may attend this meeting and speak about the petition. Only the Petition Organiser is entitled to speak and they should confirm their attendance to the Council at least 3 working days before the meeting.
- 3.9.10.5 Where more than one petition is presented in relation to a particular item the Petitions Officer will endeavour to ensure that all petitions are dealt with at the same meeting. In the event that petitions have an "opposing" viewpoint, the Petitions Officer will invite each Petitioner Organiser to nominate a spokesperson. Each spokesperson will be entitled to attend the meeting and speak about the petition. If a spokesperson is unable to attend, for any reason, the meeting will still consider the petition.
- 3.9.10.6 Where a petition is referred by the Petitions Officer to the Cabinet, appropriate Cabinet Member or appropriate City Council Committee, no discussion will take place on this matter in the City Council, except that the Councillor presenting a petition will be allowed to speak in full Council for not more than two minutes to explain the purpose of the petition.
- 3.9.10.7 The Cabinet, appropriate Cabinet Member or relevant Committee will decide how to respond to each petition and may take any of the actions described at paragraph 3.9.6.2.
- 3.9.11 **Withdrawing a Petition**
  - 3.9.11.1 The Petition Organiser may request, in writing, the withdrawal of a petition. Such requests will be considered by the Petitions Officer on their merits, but in general it should be assumed that the Council will process all valid petitions received.
  - 3.9.11.2 Where the Petitions Officer is minded to permit the Petition Organiser to withdraw a petition the Chair of the body to which the petition would have been presented shall be consulted. In the absence of agreement, the matter should

be referred for adjudication to the next available Cabinet meeting, in “private”, if appropriate. In urgent cases the Monitoring Officer should consult with the Chief Executive, the Council Leader and the leader of the principal opposition Group to resolve the matter.

**3.9.12 Petitions – Right of request to review**

- 3.9.12.1 If the Petition Organiser considers that the Council has not responded to a petition in line with this Scheme (except those petitions which are dealt with by the Planning, Licensing and Regulatory Committees) he or she has the right to request the Council's Scrutiny Co-ordination Committee to review the steps that the Council has taken in responding to the petition (not the outcome or decision). If a Petition Organiser wishes to operate his or her right to request a review they should write to the Council's Scrutiny Officer no later than 14 days after the Council notifies them of the outcome of the petition. The letter should set out the reasons why the Petition Organiser considers a review should be conducted.
- 3.9.12.2 The request will be considered by the Chair of Scrutiny consulting with the Scrutiny Officer. If it is felt that there is sufficient case to warrant a review the matter should then be referred to the Council's Scrutiny Co-ordination Committee for consideration. The Scrutiny Officer will arrange for the matter to be considered by the next available meeting of the Council's Scrutiny Coordination Committee and will notify the Petition Organiser of the date of this meeting.
- 3.9.12.3 If the Council's Scrutiny Co-ordination Committee considers the Council has not dealt with the petition in accordance with this scheme, it may use any of its powers to deal with the matter. This includes instigating an investigation, making recommendations to the Council's Cabinet or arranging for the matter to be considered at a meeting of Full Council.
- 3.9.12.4 Once the request has been considered the Petition Organiser will be informed of the results within 5 working days. The outcome of the request for a review will also be published on the Council's website as part of the Petitions register.

3.10 **Planning Committee Procedure Rules**

3.10.1 The procedure at Planning Committee (the Committee) will be as follows.

3.10.1.1 **General**

The Committee will comprise the number of Councillors of the City Council appointed by the full Council at their annual meeting. There will be no provision for substitute Councillors to attend Committee meetings.

The quorum for all meetings will be five Councillors and no business will be transacted if any meeting or part of a meeting will not be quorate.

The Committee will meet at times and places appointed and published in accordance with the ~~requirements of the Local Government Act 1972, as amended~~[Access to Information Procedure Rules](#).

The Chair will preside over meetings of the Committee and, where the Chair is absent for the whole or part of the meeting, the Deputy-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Deputy-Chair for either the whole of or part of a meeting, the Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).

The Chair of the Committee meeting will be responsible for:

- (i) calling items for consideration as they appear on the Agenda,
- (ii) calling and allowing persons to speak at the Committee meeting,
- (iii) calling any matters for consideration which do not appear on the Agenda and for giving the reason(s) for the urgency of hearing such matters,
- (iv) maintaining good order at the Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a Councillor of the Committee), or to suspend the Committee meeting, in cases of disorder, until good order has been restored.

In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

Decisions of the Planning Committee are not subject to call-in.

3.10.1.2 **Declarations**

3.10.1.2.1 *Declarations of Interests*

Councillors and Employees will, in accordance with their respective Model Codes of Conduct, declare any interests they have in respect of any items appearing on that Committee's Agenda. These declarations will be made at the outset of the meeting

under the item listed as ‘declarations’ on that Committee’s Agenda or when that item is reached on the Agenda.

#### 3.10.1.2.2 *Declarations of ‘Contacts’*

Councillors and certain Planning Employees (being the Committee Planning Officer who presents the report and the Planning Case Officer) will declare all ‘contacts’ they have received in respect of planning applications appearing on that Committee’s Agenda.

Councillors’ declarations of ‘contacts’ will be made at the outset of the meeting under the item listed as ‘contacts’ on that Committee’s Agenda or when the application is reached on the Agenda.

Planning Employees’ declarations will be made in the written report in respect of that application or verbally if received after publication of that report.

Councillors and Planning Employees will declare as ‘contacts’ those matters as they are defined in the ‘Code of Good Planning Practice’ as it appears elsewhere in this Constitution.

#### 3.10.1.3 **Petitions**

The Procedures in relation to petitions to Planning Committee are set out in paragraph 3.9.9.

At Planning Committee the length of speeches will be limited to five minutes for Members (other than as a private resident) and three minutes for all other speakers (including petition spokespersons, applicants or their nominees).

#### 3.10.1.4 **Consideration of Business on the Public Agenda and Public Speaking Scheme**

The Committee will determine all applications for permissions, approvals and consents made to and consultations with the Council under the terms of reference of the Committee (all of which matters are referred to in these rules as ‘applications’). All applications to be decided by the Committee will be dealt with as follows:

The Planning Officer will present the written report on the Agenda in respect of each item as called by the Chair. The Planning Officer may refer to photographs, plans, diagrams and such other aids as are necessary whilst presenting the written report. All these aids will be displayed at the meeting. The Planning Officer will update the written report verbally in respect of matters occurring after publication of the Agenda and which have subsequently been communicated to the Planning Officer.

Where the matter is one to which the Council’s Planning Public Speaking Scheme at the Planning Committee applies (Part 4, Annex 1), the Chair will then call speakers who have been registered to speak on that application.

- (i) A ‘registered speaker’ will be a person (other than the applicant or their representative) who has made written representations on the application to

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planning employees and has registered to speak with the Customer and Workforce Services Directorate.

- (ii) Any registered speaker may request a ward Councillor for the ward containing the application site to speak on their behalf. No member of the Committee may speak under the Public Speaking Scheme and participate in consideration of that application as a Committee member.
- (iii) Members addressing the Planning Committee in whatever capacity will be limited to 5 minutes (other than as a private resident), with a further 2 minutes to summarise after all speakers have spoken. All other speakers addressing Planning Committee under the Public Speaking Scheme will be allowed up to 3 minutes to address the Committee. Speakers will address the Committee in the following sequence:
  - objectors,
  - supporters, and
  - the applicant (or their representative).
- (iv) Speakers will only be allowed one opportunity to address the Committee, irrespective of whether the application is deferred to a later Planning Committee. However, if material changes arise following deferment, or there are exceptional reasons submitted by the speakers to address the Committee again, the Chair of Planning Committee has discretionary power to allow registered speakers an opportunity to address the Committee on new issues.
- (v) There shall be no more than 2 nominated speakers (apart from a Member) speaking in support of an application and no more than 2 nominated speakers (apart from a Member) speaking against an application. But in the case of a planning application that is defined as a Major Application, the limit on the number of speakers would be at the discretion of the Chair of Planning Committee. A major application is defined as:-
  - for dwellings - where 10 or more dwellings are proposed, or if the number of dwellings is not given, the site area is more than 0.5 hectares;
  - for all other development where the floor area to be built is over 1,000 sq.m or the site area is more than 1 hectare and
  - for any other development that the Chair determines is a major application
- (vi) No written additional information shall be circulated to Members of the Planning Committee on the day of Committee. A registered speaker wishing to have supporting information displayed to the Planning Committee during the meeting will be required to submit this to Officers 24 hours before the start of Planning Committee, and the content of the information to be displayed will be with the agreement of the Development Manager or nominee.
- (vii) For the purposes of good order in the meeting and to avoid repetition, the Chair will be entitled to curtail public speaking where he or she deems this necessary.

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Following any speakers under the Public Speaking Scheme, Committee members (including the Chair) may speak on the application as called by the Chair and, where needs be, may question Employees on matters arising out of the application.

Employees may be required at any time after public speakers have been heard to address the Committee to answer questions asked or to comment or clarify any points that have been raised during consideration of the application or to advise the Committee.

Following consideration of the application the Chair will request the Committee to decide upon the application. Where the Committee are unanimous as to its decision on the application a vote will not be required. Where there is a difference of opinion as to its decision amongst Committee members, the Committee will move to a vote on the application.

Any dispute or question as to procedure at the Committee, including the operation of the Public Speaking Scheme, will be determined by the Chair, whose decision on all matters will be final.

**3.10.1.5 Voting**

In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

All members of the Committee will have one vote. The Chair will have an extra casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

The Chair will call for a vote where the Committee are not unanimous as to its decision on an application, unless no amendment to the recommendation is proposed or such amendment is withdrawn.

Voting will be either for the recommendation as it appears in the written report (or as amended by the Planning Officer verbally at the meeting) or for the amendment to the recommendation (as proposed by a member of the Committee). Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.

Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

Where there is ambiguity in the way votes are cast, the Chair may request Committee members to confirm their votes before the Committee's decision is recorded.

#### **3.10.1.6 Private Items**

In accordance with section 100 and Schedule 12A to the Local Government Act 1972 certain reports to the Committee, most notably those on planning enforcement, will be exempt from publication and heard and determined by the Committee in private session. A resolution to enter into private session will be agreed in public by the Committee.

In relation to such 'private' items the procedure to be followed by the Committee will be as for public items as described above, except that there will be no provision for public speaking before the Committee as there will be no application for the Committee to determine.

For private items the Agenda will indicate the nature of the report and the Minutes of the meeting will:

- (i) confirm which paragraph of Schedule 12A justifies the report being determined in private and
- (ii) will confirm the resolution made by the Committee in private session.

#### **3.10.1.7 Site Visits**

The Committee has agreed rules as to when a site visit ought to take place and how it should be conducted. Those rules are as follows:

- (i) A visit can be scheduled for any application where, in discussion with the Chair it is felt by Planning officers that a visual appreciation is necessary. In these circumstances, the reasons why a visit has been held before consideration of the application by the Planning Committee will be clearly stated on the agenda.
- (ii) A visit can also be made where the Committee feel that there is significant doubt about the decision which should be made on the proposal which necessitates a visual appreciation of the site or its surrounding and no other method of obtaining this appreciation is available. The reasons for such visit should be specified, minuted and included on the Committee Agenda. The Councillor(s) requesting the visit will be expected to attend.
- (iii) The Committee will normally only visit the application site and those premises from which a visual inspection of the proposals is considered essential to gain an understanding of the physical issues involved and that in notifying the owner(s) of the site to be visited, it will be made clear that no personal representations will be entertained.
- (iv) The Committee will convene to consider applications immediately following the conclusion of visits.
- (v) No member of the public other than the owners/occupiers of the properties to be visited will be invited to attend.

- (vi) Discussions at a property will be confined to factual questions asked of and answered by Planning Employees.
- (vii) Site visits may be necessary in other instances not involving consideration of an application (such as adoption of a proposed development brief).
- (viii) The provisions of the Codes of Conduct for Elected Members and Employees as they apply to conduct of official business by Councillors and employees will apply to site visits.

#### 3.10.1.8 Other Matters

From time to time the Committee may consider reports on other items falling within the Committee's terms of reference, such as the Committee's role as a consultee on the City Council's own planning policy or on proposed changes to national or regional planning policy.

In those circumstances the procedure to be followed will be as described for public items above except that, there being no application for the Committee to determine, there will be no provision for public speaking before the Committee.

#### 3.10.2 Development Forums

The purpose of Development Forums are to enable the engagement of Councillors and members of the public in pre-application discussions in a structured manner, with a view to promoting quality development and facilitating engagement with communities at the earliest opportunity.

Prior to submission of formal applications for major or potentially contentious proposals, Developers (which could include City Council employees in the role of Developers) are able to request to make a presentation to all Councillors of the City Council in the form of a Development Forum. The Development Manager or nominee, in consultation with the ~~Cabinet Member~~relevant Cabinet Member (City Development) and the ~~Executive Director, Resources~~Director of Customer and Workforce Services will determine whether a request to hold a Development Forum should be acceded to.

Discussions at Development Forums will not bind the City Council as Local Planning Authority and this will be made clear at the outset of each meeting. Similarly it will be made clear that the views expressed are not part of the determination process and that any statements made at a Development Forum are "without prejudice".

Development Forums will normally be chaired by the ~~Cabinet Member~~relevant Cabinet Member (City Development), or her/his nominee, (who would normally be a Cabinet Member). The Chair will be responsible for the smooth running of the Forum and will ensure that questions from Councillors or members of the public are relevant and not repetitive.

Appropriate employees of the City Council will be in attendance.

Development Forums will normally be held in City Council offices. They will be open to members of the public and will be included on the weekly public notice of meetings.



*Part 3.10 – Planning Committee Procedure Rules*

Publicity will be given to meetings of the Development Forum through a press release which the developer will be expected to procure. The Development Manager will also send out targeted letters to residents groups and other interest groups.

Developers will be given the opportunity to make a presentation that should describe their proposal and explain how they believe the proposal relates to the Development Plan, how it fits in with local needs and preferences; and any other material consideration that they believe Councillors should give weight to. Presentations should be limited to the development proposal and a question and answer session on factual matters. It is expected that such a presentation should not last longer than 30 minutes.

A question and answer session on factual matters will follow. Councillors will be able to ask questions but must refrain from entering into debate directly with the Developers. Councillors must maintain an impartial listening role and avoid expressing an opinion to the Developers. Questions should focus on clarifying aspects of the proposal or express policy concerns, but must not develop into negotiations.

Members of the public may also ask questions of the Developer but must refrain from entering into debate with the Developers.

Notes will be taken at meetings of the Development Forum and a summary of the discussions will be kept on file which will be open to public inspection.

After the Developers and members of the public have left the meeting, Councillors can then discuss with employees any concerns, issues, requirements as to the future conduct of any employee/Developer negotiations. Councillors will advise employees as to any matters where they consider that further discussion and or amendments may be appropriate.

Employees will advise the Developers of any issues that they may wish to consider further and will continue to work with the Developers to achieve a quality scheme.

3.11 **Licensing and Regulatory Committee Procedure Rules**

3.11.1 **Application of Rules**

The following procedure rules apply when the Licensing and Regulatory Committee is dealing with the matters specified.

The quorum for Licensing and Regulatory Committee will be 5 Members.

Decisions of the Licensing and Regulatory Committee are not subject to call-in.

In order to vote on an application, a member of the Committee must be present throughout the entire debate on an individual application.

3.11.2 **Hackney Carriage/Private Hire Licensing Committee Hearing (General) Procedure Rules**

3.11.2.1 The applicant/licensee is invited into the meeting.

3.11.2.2 The Chair will introduce those present and ask the applicant/licensee:

- (a) if s/he has been advised of their right to have legal representation; and
- (b) if not represented whether s/he is happy to proceed; and
- (c) that s/he has received a copy of the Licensing Officer's report and understands the procedure that the Committee will follow?

3.11.2.3 The Licensing Officer will present his/her report.

3.11.2.4 The Licensing Officer will invite the applicant/licensee to explain the circumstances of any conviction or other matter mentioned in the report.

3.11.2.5 The Licensing Officer may ask the applicant/licensee further questions.

3.11.2.6 The Chair will ask the applicant/licensee if s/he has any questions for the Licensing Officer.

3.11.2.7 The members of the Committee are invited by the Chair to ask the applicant/licensee or the Licensing Officer questions.

3.11.2.8 The Chair will invite the applicant/licensee to make a final statement summing up his/her case, or referring the Committee to points s/he feels it should consider, or adding any points s/he has not previously covered.

3.11.2.9 The Chair will ask the applicant/licensee together with any Licensing or Police officers present to leave the room whilst the Committee makes its decision.\*

3.11.2.10 The Chair will invite those who left the room back in and inform the meeting of the Committee's decision. Where the decision is to refuse a licence or to take action against an existing licence, the Chair will inform the meeting of the facts the committee relied on in making its decision and the reasons for that decision.

*Part 3.11 – Licensing and Regulatory Committee Procedure Rules*

3.11.2.11 The Chair will inform the applicant/licensee that the Committee's decision will be confirmed in writing within 7 working days and that the letter will advise of any right of appeal, if relevant.

- \* The Chair may invite both the applicant/licensee and the Employees back into the room in order to clarify any points that may arise during its deliberations. Neither the applicant/licensee nor the employees will be invited back alone without the other party being present.

**3.11.3 Hackney Carriage/Private Hire Licensing Committee Hearing (Complaint) Procedure Rules**

The licensee is invited into the meeting.

3.11.3.2 The Chair will introduce those present and ask the licensee:

- (a) if s/he has been advised of their right to have legal representation; and
- (b) if not represented, whether s/he is happy to proceed; and
- (c) that s/he has received a copy of the Licensing Officer's report and understands the procedure that the Committee will follow?

3.11.3.3 The Licensing Officer will present his/her report.

3.11.3.4 The complainant is invited into the meeting and is asked to give his/her evidence to the Committee.

3.11.3.5 The Licensing Officer may ask the complainant questions.

3.11.3.6 The licensee may ask the complainant questions.

3.11.3.7 The Councillors of the Committee may ask the complainant questions.

3.11.3.8 The licensee is invited to comment on the employee's report and on what the complainant has said.

3.11.3.9 The Licensing Officer may ask the licensee questions.

3.11.3.10 The members of the Committee may ask the licensee questions.

3.11.3.11 The Chair asks the complainant if s/he has any further comments on what has been said? The Chair will then thank the complainant for attending and tell him/her that they are free to go.

3.11.3.12 The licensee is invited by the Chair to make a final statement summing up his/her case, or referring the Committee to points s/he feels it should consider, or adding any points s/he has not previously made.

3.11.3.13 The Chair will ask the licensee and the Employees to leave the room whilst the Committee makes its decision.

*Part 3.11 – Licensing and Regulatory Committee Procedure Rules*

3.11.3.14 The Chair will invite the licensee and employees back into the room and announce the Committee's decision. Where the Committee has decided to uphold the complaint and take formal action against the licensee, the Chair will inform the meeting of the facts the Committee relied upon in making its decision and the reasons for that decision.

3.11.3.15 The Chair will inform the licensee that the Committee's decision will be confirmed in writing within 7 working days and that the letter will advise of any right of appeal, if relevant.

3.11.4 **Sub-Committees of the Licensing and Regulatory Committee**

1. All Members of the Licensing and Regulatory Committee will be required to receive training before considering applications under the Licensing Act 2003 and the Gambling Act 2005.
2. Sub-Committees of the Licensing and Regulatory Committee will be established as necessary to consider applications under the Licensing Act 2003 and the Gambling Act 2005.
3. The membership of each Sub-Committee will be 3 Members, to be selected by the ~~Director of Customer and Workforce Services~~ Executive Director, Resources in consultation with the Chair of the Licensing and Regulatory Committee, drawn from the membership of the Licensing and Regulatory Committee.
4. Sub-Committees are the subject of proportionality requirements of the Local Government Act 1989 and the ~~Executive Director, Resources, Director of Customer and Workforce Services~~, Executive Director, Resources, in selecting the membership of any Sub-Committee, will ensure that the membership, as far as it is practicable, properly reflects the political makeup of the Council.
5. A Member who is unable to attend a meeting will be entitled to appoint a substitute Member, provided that such substitute Member is a member of the Licensing and Regulatory Committee.
6. The Quorum for each Sub-Committee will be 3 Members.
7. The Chair for each meeting will be appointed by the Sub-Committee at the start of their meeting. (The Chair will normally be a Member of the Controlling Group).
8. The Sub-Committees are subject to the Access to Information Procedure Rules set out in Part 3.2.
9. Decisions of the Sub-Committees are not subject to the call-in procedure.
10. Minutes of the Sub-Committees will be submitted to the Licensing and Regulatory Committee.
11. The ~~Executive Director, Resources, Director of Customer and Workforce Services~~ Executive Director, Resources will report regularly to the Chair of the Licensing and Regulatory Committee on Members' availability and/or attendance at Sub-Committees.

**3.11.5 Licensing Act 2003 - Hearing Procedure Rules**

1. The members of the Sub-Committee will enter the hearing room.
2. The Chair will introduce the Members of the Sub-Committee and its supporting officers and will ask each of the parties (and their representatives) to identify themselves.
3. The Chair will ask if the parties have received and understood the procedure note and whether anyone present would like the procedure explained further.
4. The Chair will confirm any relevant documents the Sub-Committee has received and will be considering and will ask the parties whether there are any further documents they wish to present and their reasons for doing so.
5. The Chair will ask if any party wishes to call witnesses in support of their case and their reasons for doing so.
6. The Licensing Officer will give a brief description of the application, confirm whether all relevant application formalities have been complied with and whether the authority has notified any of the parties of any points the authority wanted clarification on at the hearing.
7. The Chair will invite the applicant/licensee (or representative) to present their case (maximum 20 minutes).
8. The Chair will invite Members of the Sub-Committee to ask the applicant/licensee (or representative) questions.
9. The Chair will invite each objector/review respondent (or representative) to present their case (maximum 20 minutes each).
10. The Chair will invite Members of the Sub-Committee to ask each objector/review applicant (or representative) questions.
11. The Chair will invite each objector/review applicant (or representative) to sum up their case (maximum 10 minutes).
12. The Chair will invite the applicant/licensee to sum up their case (maximum 10 minutes).\*
13. The Members of the Sub-Committee will retire with their supporting officers to make their decision.
14. The Members of the Sub-Committee and their supporting officers will return to the hearing room and the Chair will invite the Committee Solicitor to inform the meeting of the decision made, the facts relied on, the reasons for the decision and any legal advice given).

\* Where permitted by the Act, the Chair may close the meeting at this point and re-convene the meeting in private at a later date for the Sub-Committee to make its decision.

**3.11.6 The Gambling Act 2005, Gambling Sub-Committee - Hearing Procedure Note**

1. The members of the Sub-Committee will enter the hearing room.
2. The Chair will open the meeting, introduce the Members of the Sub-Committee and its supporting officers and will ask each of the parties (and their representatives) to identify themselves.
3. The Chair will ask if the parties have received and understood the procedure note (and in particular that cross-examination by the parties is not normally allowed) and whether anyone present would like the procedure explained further?
4. The Chair will confirm any relevant documents the licensing authority has received before the hearing and will be considering, and will ask the parties whether there are any other documents they now wish to present (subject to the other parties consent) and their reasons for doing so.
5. The Chair will ask if any party wishes to call witnesses in support of their case and their reasons for doing so.
6. the Licensing Officer will give a brief description of the application, confirm whether all relevant application formalities have been complied with and where relevant, that the authority proposes to attach/exclude conditions.
7. The Chair will invite the Members of the Sub-Committee to ask the Licensing Officer questions.
8. The Chair will invite the applicant (or representative) and the other parties making representations to comment on what the Licensing Officer has said.
9. The Chair will invite the applicant (or representative) to present their case (maximum 20 minutes).
10. The Chair will invite Members of the Sub-Committee to ask the applicant (or representative) questions.
11. The Chair will invite the Licensing Officer/other parties making representations to comment on what the applicant has said.
12. The Chair will invite each party making representations (or representative) to present their case (maximum 20 minutes each).
13. The Chair will invite Members of the Sub-Committee to ask each party making representations (or representative) questions.
14. The Chair will invite the Licensing Officer/applicant (or their representative) to comment on what each party making representations has said.

*Part 3.11 – Licensing and Regulatory Committee Procedure Rules*

15. The Chair will invite each party making representations (or representative) to sum up their case and if they wish, to comment on anything said by any other party (maximum 10 minutes).
16. The Chair will invite the applicant (or representative) to sum up their case (maximum 10 minutes).
17. The Chair will invite the Licensing Officer to sum up any reasons why conditions should be attached or excluded, and highlight anything that the Sub-Committee should take into consideration.
18. The Chair will ask all parties if they are satisfied that they have had the opportunity to say everything that they wish to. \*(The Members of the Sub-Committee will then retire with their supporting officers to make their decision).
19. The Members of the Sub-Committee and their supporting officers will return to the hearing room and the Chair will invite the Sub-Committee Solicitor to inform the meeting of the decision made, any facts relied on, the reasons for the decision and any specific legal advice given.
20. The Sub-Committee's decision will be confirmed in a written Notice of Determination that will be issued to all parties within 10 working days of the hearing.

**Please note**

- Changes of Sub-Committee membership will be given at the beginning of the meeting
  - Decisions will generally be taken regardless of whether the applicant is present.
  - All notices and representations received from absent parties will be considered.
  - Late representations and evidence will only be considered with agreement of all parties present.
  - In cases where a decision cannot be given at the end of the hearing, the decision will be made within 5 working days after the day of the hearing and the parties will be notified in writing.
  - Parties have a right to appeal to the Magistrates Court, within 21 days of notification of the decision.
  - The Sub-Committee may on occasion find it necessary to exclude members of the press and public where they are satisfied that is necessary in all the circumstances of the case, eg. any unfairness to a party that is likely to result from a hearing in public; or/and the need to protect as far as possible, the commercial or other legitimate interests of a party.
  - The hearing is intended to take the form of the discussion lead by the Sub-Committee.
  - The Sub-Committee has the right to exclude any parties disrupting the hearing or require him/her to meet certain conditions for him/her to continue to take part in the hearing.
  - Any persons excluded in this manner is able to submit information in writing to the Sub-Committee before it finishes, that s/he would have been entitled to state orally had they not been required to leave.
- \*—The Chair may close the meeting at this point and reconvene the meeting in private for the Sub-Committee to make its decision before the end of the period of 5 working days, starting with the day after the last day of the hearing.

**3.11.7 Sex Establishments Licensing—Committee Hearing Procedure Note**

1. The Parties are invited into the meeting.
2. The Chair will introduce him/herself, the other members of the Committee and any officers assisting the Committee. The Chair will invite each of the parties present and any representatives to identify themselves.
3. The Chair will ask the parties if they have received a copy of the Licensing Officer's report and understand the hearing procedure.
4. The Chair will ask if any party wishes to submit any documents in addition to their application/representation. If the other parties have not previously seen the document, the Chair will request that it first be passed to them, so that they can decide whether they object to it being submitted to the Committee\*. Any further documents being put forward must relate to application and/or the statutory grounds for objecting. The final decision on whether any further documents are admitted will rest with the Chair.
5. The Chair will remind the parties that the purpose of the hearing is to consider arguments in favour of the application and arguments against it. The hearing is not a court of law where the truth of what is said has to be tested and proved and therefore cross-examination between the parties will not normally be allowed.
6. The Licensing Officer will present his/her report.
7. The applicant will address the Committee to present the application and may call evidence in support.
8. If the Police have lodged an objection, they may address the Committee to present their objection and may call evidence in support.
9. If any council officer (other than the Licensing Officer) has lodged an objection, they may address the Committee to present their objection and may call evidence in support.
10. All other objectors may address the Committee to present their objection and may call evidence in support. Where several objectors have submitted similar objections, the Chair may invite those objectors to nominate a spokesperson to speak on their collective behalf.
11. The Chair will invite the members of the Committee to ask the parties questions.
12. Objectors will be asked if they wish to make a closing statement.
13. The applicant will be asked if he/she/they wish to make a closing statement.
14. The Chair will ask if any members of the Committee have any points they want clarified by any of the parties before the parties leave the room.



*Part 3.11 – Licensing and Regulatory Committee Procedure Rules*

15. The Chair will invite the parties to leave the room whilst it debates the application in private\*\* . Relevant supporting officers (e.g. legal adviser, minute taker) will remain with the Committee in order to provide professional advice and to record the deliberations.
16. The Parties will be invited back into the room and the Chair will announce the Committee's decision. Written confirmation of the decision will be issued to the Parties within 10 working days.

\* The Chair may adjourn the hearing to another date where it is appropriate to do so, for example to consider further documentation submitted or to allow a formal site visit to take place.

\*\* If a point arises during the adjournment that requires clarification, then all of the parties will be invited back into the room so that the appropriate questioning can take place with everyone present.

\*\*\* The Chair may alter or depart from this procedure where it is appropriate in the circumstances to do so.

3.12 **Appeals Committee Procedure Rules**

3.12.1 An Appeals Committee will consist of Councillors who are not Cabinet Members and who have been trained in hearing appeals.

3.12.2 ~~The membership of each Appeals Committee and a~~Any Statutory Review Board will comprise the appropriate number of members as selected by the ~~Executive Director, Resources Director of Customer and Workforce Services~~ on an ad hoc basis from a Panel of Councillors who have had training in determining appeals and any statutory or other requirements for review boards.

~~3.12.3 The membership of each Appeals Committee will be determined by the Director of Customer and Workforce Services on an ad hoc basis from a Panel of Councillors who have had training in determining appeals.~~

3.12.3 The Chair of an Appeals Committee or a Statutory Review Board will be appointed by the Committee or Review Board at the start of each meeting.

3.12.4 Each Appeals Committee will comprise three Councillors (subject to any statutory requirements to the contrary) and all three Councillors will be required to be present to consider the appeal.

3.12.5 No Councillor who has had any previous knowledge or dealings with the matter which is the subject of an appeal will be eligible to serve on an Appeals Committee that considers that matter. In relation to an Appeals Committee dealing with an employment dispute, no Councillor who is a trade union official, employee or other office holder shall be permitted to be a Member of the Committee.

3.12.6 Appeals Committees are subject to the Access to Information Procedure Rules set out in Part 3.2.

3.12.7 Appeals Committees are the subject of the proportionality requirements set out in the Local Government and Housing Act 1989 and the ~~Executive Director, Resources Director of Customer and Workforce Services~~ in selecting membership of any Appeal Committee or statutory review board will ensure that the membership properly reflects the political make up of the Council.

3.12.8 Decisions of the Appeals Committees are not the subject of call-in.

3.12.9 The ~~Executive Director, Resources Director of Customer and Workforce Services~~ or her/his representative will attend all meetings to advise and record proceedings.

3.12.10 Appeals Committees dealing with employment appeals or trade union disputes will have in attendance the relevant Senior Human Resources Manager or her/his nominee to advise as appropriate.