

# CONSTITUTION OF THE COUNCIL

~~(April 2004)~~

(August 2005)

**“Please note that the page numbers at the foot of each page refer to the copy of the Council’s current Constitution that is on the Council’s website**

**[www.rossendale.gov.uk/doc.asp?cat=226&doc=659](http://www.rossendale.gov.uk/doc.asp?cat=226&doc=659)**

**It is hoped that this will assist with comparing the 2 documents”**

# CONSTITUTION OF THE COUNCIL

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# Summary and Explanation

## The Council's Constitution

At its meeting on 19th December, 2001 Rossendale Borough Council agreed the first Constitution at of Rossendale Borough Council. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into various articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document. This is the third Constitution of Rossendale Borough Council which was approved by Council at its meeting on ~~31<sup>st</sup> March 2004~~. [24th August 2005](#).

## What is in the Constitution ?

Article 1 of the Constitution commits the Council to provide clear leadership to the Community in partnership with citizens, stake holders, businesses and other organisations to support the active involvement of citizens in its decision making processes.

Articles 2 to 14 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The [Executive Cabinet](#) (Article 6)
- Overview and Scrutiny [Committee Committees](#) (Article 7)
- Policy and Regulatory Committees and Area Forums (Article 8)
- The Standards and Monitoring Committee and the Audit Committee (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision making (Article 12)
- Finance, contracts and legal matters (Article 13)
- Suspension, interpretation and publication of the Constitution (Article 14)

## How the Council operates

The Council is composed of 36 Councillors normally elected in thirds and, in usual circumstances, such Councillors would serve for 4 years. The overriding duty and accountability of Councillors is to the whole community, but they have a special duty to their constituents in their Wards, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

The Standards Committee advises them on the Code of Conduct and ensures that they receive appropriate training.

All Councillors meet together as the Council. Meetings of the Council are normally open to the Public. Here Councillors decide the Councils' overall policies and set the budget each year. The Council also makes a number of appointments and these are as follows:-

- The Leader
- The [ExecutiveCabinet](#)
- Area Forums
- Standards Committee
- Overview and Scrutiny [CommitteeCommittees](#)
- Regulatory Committees
- [AuditAppointments and Appeals](#) Committee

Members of the Public are able to ask questions during the Public Question Time at meetings of the Council, the [ExecutiveCabinet](#) and Committees.

## How decisions are made

Most day to day decisions are made by Senior Officers of the Council under delegated authority. The Council has an [ExecutiveCabinet](#), and other Committees.

## The [ExecutiveCabinet](#)

The [ExecutiveCabinet](#) carries out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The [ExecutiveCabinet](#) is primarily responsible for leading on Community Planning and searching for best value, taking [executiveCabinet](#) decisions on resources and priorities; preparing the budget for approval and leading on Council priorities and being the focus for forming partnerships with other local organisations.

Development Control Committee deals with Planning applications and related matters and the Licensing Committee deals with issues such as Taxi licensing and other licensing matters.

~~There is also an Audit committee which is responsible for ensuring high standards of Corporate Governance.~~

Meetings of the Council, its [ExecutiveCabinet](#) and Committees are, by law, publicised well in advance and are open to the public except where exempt or confidential matters are being discussed.

## Overview and Scrutiny

There ~~is one~~are two Overview and Scrutiny [CommitteeCommittees](#) which ~~supports~~support the work of the ~~Policy Committees~~[Cabinet](#), and the Council as a whole. ~~It is~~One Committee deals with Policy; the other with Performance. They are accountable, to Full Council. ~~It allows~~They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local interest. These can lead to reports and recommendations which advise [the Cabinet](#), other Committees

and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny ~~Committee~~Committees also ~~monitors~~monitor the decisions of the ~~Executive~~Cabinet and other Council Committees. Members and the Committee can “call-in” a decision [of a non-regulatory committee] which has been made but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the ~~Executive~~Cabinet, or Full Council should reconsider the decision. It may also be consulted by the ~~Executive~~Cabinet and other Committees on forthcoming decisions and the development of policy. Another of its functions is to ~~ensure~~support the Cabinet in ensuring that the Council complies with its duties concerning Best Value, in accordance with the Local Government Act 1999. It has a key role to play in promoting and monitoring good performance management throughout the Council.

## **The Council’s Staff**

The Council has people working for it called “Officers”, to give advice, implement decisions and manage the day to day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. Mutual respect between Members and Officers is vital and the Council has adopted a Protocol on Member Officer Relations which is set out in Part 5 of this Constitution.

## **Citizens’ Rights**

Citizens have a number of rights in connection with their dealings with the Council. These are set out in detail in Article 3. Some of these are legal rights, whilst others depend on the Council’s own processes. The local Citizen’s Advice Bureau can advise on individuals’ legal rights.

closest to the purposes stated above.

~~The Audit Committee will monitor, review and evaluate the operation of the Constitution.~~

## ARTICLE 3 - CITIZENS AND THE COUNCIL

### 3.01 Citizens' Rights and Responsibilities

Citizens have the following rights:-

- (a) **Voting and Petitions.** Citizens on the electoral roll for the Borough have the right to vote and sign a petition to request a referendum for an elected mayor.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council its [ExecutiveCabinet](#) and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) see reports and background papers, (excluding confidential or exempt information) and any records of decisions made by the Council its [ExecutiveCabinet](#) and Committees; and
  - (iii) inspect the Council's accounts and make their views known to the external auditor.
  - (iv) inspect any document as set out in the Councils Publication Scheme.
  - (v) contact Councillors about all matters of concern to them.
  - (vi) obtain a copy of the Council's Constitution
  - (vii) find out from the Forward Plan what key decisions are to be discussed by the Council, its [ExecutiveCabinet](#) and Policy Committees,
- (c) **Participation.**
  - (i) Citizens have the right to submit written questions to Council meetings and to ask questions at its [ExecutiveCabinet](#) and Committee meetings and to be consulted on the level and quality of local services in accordance with the Councils Consultation Strategy.
  - (ii) Contribute to investigations by the Overview and Scrutiny [CommitteeCommittees](#)

## ARTICLE 4 – THE FULL COUNCIL

### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Best Value Performance Plan ~~(the Corporate Plan)~~
  - [Corporate Plan](#)
  - Community Strategy
  - Crime and Disorder Reduction Strategy
  - Local Transport Plan
  - Plans and strategies which together comprise the Development Plan/[Local Development Framework](#) (Principally, the Lancashire County Structure Plan and Rossendale Borough Council Local Plan)
  - Housing Strategy and Housing Investment Programme
  - Food Law Enforcement Service Plan
  - [Local Agenda 21 Strategy](#)
  - [Licensing Policy](#)
  - [Financial Management Strategy](#)
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and Housing Rents and decisions relating to the control of the Councils borrowing requirements, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions of the Full Council

The Council will exercise the following functions which cannot be delegated, save by specific resolution of Council where these are not reserved to Council by law.

- i) **Constitutional**
- a) To adopt and amend the Council Constitution.
  - b) To adopt or amend the terms of reference and delegations of the ~~Executive~~[Cabinet](#) and Committees, and the Officer Delegation Scheme.



- c) To elect the Chair of the Council (the Mayor) and Vice Chair of the Council (Deputy Mayor)
- d) To appoint the Leader of the Council and Deputy Leader of the Council [and the members of the Cabinet.](#)
- e) To determine which Council Committees the Council will have for the next Municipal year and the number of seats on them [save for co-optees in relation to Overview and Scrutiny Committees.](#)
- f) Make decisions about any matter which is the responsibility of the [Executive Cabinet](#) or other Committee which is not in accordance, or not wholly in accordance with the policy framework or budget.
- g) To receive notification from the Leaders of the Political Groups of the names of persons which their respective groups are appointed to fill seats allocated to them on the various committees and of any changes to the names of persons appointed to such committees and to appoint representatives to outside bodies.
- h) To appoint Chairs and vice Chairs of the various committees. To make appointments to other internal bodies not effected by the political balance rules.
- i) To receive notification of the appointment by the minority political group(s) on the Council of the Leaders and Deputy Leaders of these Groups.
- j) To appoint representatives of the Council on the Joint Authorities and the spokespersons to answer any questions at Council on the functions of joint authorities.
- k) To make arrangements for the discharge of the Council's functions by another local authority.
- l) To change the name of the area and to confer the title of Honorary Alderman on the Freedom of the Borough.
- m) [Where it relates to a Council function any function under a local Act .](#)
- n) [The determination of an appeal against any decision made by or on behalf of the authority.](#)
- o) [The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.](#)
- p) [Where it relates to a Council function, the obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.](#)

g) Where it relates to a Council function, the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

r) The appointment of any individual -

(a) to any office other than an office in which he or she is employed by the authority;

(b) to any body other than -

(i) the authority;

(ii) a joint committee of two or more authorities; or

(c) to any committee or sub-committee of such a body and the revocation of any such appointment

s) Where it relates to a Council function, the making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.

ii) **Probity**

a) To adopt the Council's Code of Conduct for Members and Officers, to adopt or amend the Members Allowance Scheme

iii) **Policy**

a) To approve or amend the Councils' Policy framework having regard to the Council's Community Strategy

b) To approve any application to the Secretary of State for the transfer of housing land.

c) To promote or oppose any legislation or to make or amend byelaws to approve any plans or strategies which require approval by a Secretary of State.

iv) **Financial**

a) To approve the Council's Revenue Budget and Capital Expenditure Programme.

b) To set a Council Tax and calculate the Council Tax Base

c) To determine any matter involving expenditure not provided for in the Council's approved budget subject to any agreed virement arrangements

d) To determine the level of Council House Rents

- e) To approve any plan or strategy for the control of the authority's borrowing or capital expenditure including the adoption of a treasury Management Policy Statement
  - f) To approve policies and practices regarding the granting of discretionary rate relief or remission of rates in accordance with section 47 of the Local Government Finance Act 1988.
  - g) To deal with matters relating to Local Government Pensions referred to in the Local Authorities (Functions) and responsibility of regulations 2000 as amended with the appropriate officer that does not wish to exercise his/her delegated powers.
- v) **Electoral**
- a) To appoint a Returning Officer for ~~Local Government Elections~~[Borough and Town Council elections](#)
  - b) To appoint an Electoral Registration Officer
  - c) To make recommendations concerning District boundaries, electoral divisions wards or Polling Districts.
- [vi) **Staffing**
- a) To confirm the appointment of the Head of Paid Service.
  - b) To deal with all aspects of discipline and dismissal of Head of Paid Service, Chief Finance Officer and Monitoring Officer in accordance with statutory provisions.
  - c) To designate the posts of Head of Paid Service, Chief Finance Officer and Monitoring Officer.
  - d) To determine the terms and conditions on which staff hold the offices in c) above (including procedures for their dismissal as set out in the appropriate regulations).]
- vii) **Reports [in relation to Council functions](#)**
- [a) To consider a report of the Head of Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989.
  - b) To consider a report by the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989.
  - c) To consider a report by the Chief Finance Officer in accordance with Section 115 of the Local Government and Finance Act 1988.
  - d) To consider any report put to Council.]

## ARTICLE 6 - THE ~~EXECUTIVE~~CABINET

### 6.01 ~~Executive Committee~~Cabinet

The Council will appoint an ~~Executive Committee:-~~Cabinet.

The functions of the ~~Executive~~Cabinet are set out in Part 3 of the Constitution

## ARTICLE 7 – OVERVIEW AND SCRUTINY

### 7.01 Appointment Membership and Terms of Reference

The Council will appoint ~~one~~two Overview and Scrutiny ~~Committee~~Committees. The ~~Committee~~Committees will be politically balanced. Members of the ~~Executive~~Cabinet are excluded from membership of the ~~Committee~~Committees. The ~~Committee~~Committees may also appoint people who are not Members of the Authority in a non voting capacity.

The Committee will be responsible for discharging functions conferred by Section 21 of the Local Government Act 2000 or any Regulations under Section 32 of the Local Government Act 2000.

### 7.02 General Role

Within ~~its~~their terms of reference ~~the~~—Overview and Scrutiny ~~Committee~~Committees may:-

- i) Review and or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the Council and/or its ~~Executive~~Cabinet and other Committees and/or any joint Committee in connection with the discharge of any functions.
- iii) Consider any matter affecting the area
- iv) Exercise the right to Call-in decisions made by the ~~Executive~~Cabinet and the Council's non regulatory committees in accordance with the "Call-in" Procedure set out in the Procedure Rules within this Constitution.

### 7.03 Specific Functions

- a) Policy Development and Review

Overview and Scrutiny may:

- i) Assist the Council and the ~~Executive~~Cabinet in the budget and policy framework
- ii) Conduct research, undertake community and other consultation in the analysis of policy issues and possible options.
- iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

- iv) Question Members of the [ExecutiveCabinet](#) and the Chairs of Committees, Chief Officers and Heads of Service views on and proposals affecting the area
- v) Liaise with external organisations whose operations affect the area to ensure that the interests of local people are enhanced by collaborative working.

**b) Scrutiny**

Overview and Scrutiny may:

- i) Review and scrutinise decisions made by and performance of the [ExecutiveCabinet](#) and other Council Committees and Council Officers.
- ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and all service areas.
- iii) Question members of the [ExecutiveCabinet](#) and Chairs of Committees, Chief Officers and Heads of Service about their decisions and performance.
- iv) Make recommendations to the [ExecutiveCabinet](#), other committees or Council arising from the outcome of the Scrutiny process.
- v) Review and scrutinise the performance of other public bodies whose operations affect the area and invite reports from them or request them to address the Overview and Scrutiny [CommitteeCommittees](#) and Local people about their activities and performance.
- vi) Question and gather evidence from any person (with their consent)

**c) [Audit](#), Best Value and Performance Management**

Overview and Scrutiny shall ~~be~~:

- i) ~~Responsible for~~[Consider](#) the Best Value Performance Plan and make recommendations to ~~Council~~[the Cabinet](#) on the Plan.
- ii) Consider regular progress/milestone reports on Best Value Reviews
- iii) Consider and approve Best Value service reviews and forward Improvement and Action Plans to the [ExecutiveCabinet](#) for formal approval.
- iv) Receive regular monitoring reports of Improvement Action Plans and Performance Indicators to see where the targets are being achieved.

**d) Finance**

The Budget for the Overview and Scrutiny ~~Committee~~Committees will be held by the Head of Legal and Democratic Services.

**e) Annual Report**

The Overview and Scrutiny ~~Committee~~Committees will report annually to the Council on its workings.

## **ARTICLE 8 – REGULATORY COMMITTEES AND AREA FORUMS**

### **8.01 Regulatory Committees**

The Council will appoint:-

1. A Development Control Committee, to be responsible for dealing with planning applications and related matters.
2. A Licensing Committee ~~and 3 Sub-Committees~~ to have responsibility for licensing and associated regulatory matters.

### **8.02 Area Forums**

The Council will appoint four Area Forums to enable local people to influence decisions about local services.



## ARTICLE 9 – THE STANDARDS COMMITTEE, ~~AUDIT COMMITTEE~~ AND APPOINTMENT AND APPEALS

### 9.01 Standards Committee

The Council will have a Standards Committee.

### 9.02 Composition

(a) **Membership.** The Standards Committee will comprise:

- Six Councillors, who are not members of the ~~Executive~~[Cabinet](#)
- Three independent persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (Independent Members); Independent Members are entitled to vote at meetings
- One Member of Whitworth Town Council who must be present when matters relating to Whitworth Town Council or their Members are being considered. The Town Council Member will be entitled to vote at meetings.

### 9.03 Roles and Functions

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, Co-opted Members.
- (b) Assisting Councillors, Co-opted Members to observe the Members Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members Code of Conduct.
- (d) Monitoring the operation of the Members Code of Conduct.
- (e) Advising training or arranging to train Councillors, co-opted Members on matters relating to the Members Code of Conduct.
- (f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members Code of Conduct.
- (g) Dealing with any reports from the case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer ~~to exercise the above~~
- (h) [Monitor the Constitution and make recommendations to Council in respect of any proposed amendments.](#)

(i) Consider and approve the Statement of Accounts.

(j) Monitor the whistle blowing policy.

(k) Monitor the Council's Corporate Governance arrangements.

To exercise functions (a) to (g) in relation to Whitworth Town Council within the Rossendale Borough Council and the Members of Whitworth Town Council.

9.04

### **Audit Committee**

~~The Council will appoint an Audit Committee which will have the following roles and functions ;~~

~~a) Monitor the Constitution and make recommendations to Council in respect of any proposed amendments,~~

~~b) Monitor internal and external audit,~~

~~c) Monitor the whistle blowing policy,~~

~~d) Monitor complaints handling~~

~~e) Monitor Ombudsman investigations~~

~~f) Monitor the Council's Corporate Governance arrangements.~~  
**9.05  
— Appointment and Appeals**

The Council will have an Appointment and Appeals Committee to deal with staffing issues relating to Chief Officers and any statutory right of appeal or any other formal appeal matter which may be referred to Elected Members for their determination.

## ARTICLE 10 – JOINT ARRANGEMENTS

### 10.01 Arrangements to Promote Well Being

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 10.02 Joint Arrangements

(a) The Council may establish joint arrangements with one or more local authorities and/or their ~~executives~~Cabinets to exercise functions ~~(which are not executive~~Cabinet functions in any of the participating authorities), or to advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.

(b) The Council may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

(c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee established under Articles 10.2(b) and those committees need not reflect the political composition of the local authority as a whole.

(d) The Cabinet may appoint members to a joint committee established under Paragraphs 10.2 (a) and (b) from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.

(e) Details of any joint arrangements including any delegations to joint committees are set out in Part 3 of this Constitution.

#### 10.03 **Access to Information**

(a) The Access to information Procedure Rules in Part 4 of this Constitution (“Council Procedure Rules”) apply.

(b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

(c) If the Joint Committee contains Members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 10.04 **Delegation to and from other local authorities**

(a) The Council may delegate non-Cabinet functions to another Local authority or, in certain circumstances, the Cabinet of another Local Authority.

(b) The Cabinet may delegate Cabinet functions to another Local Authority in certain circumstances.

(c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Full Council meeting.

#### 10.05 **Contracting out**

The Council (for functions which are not Cabinet functions) and the Cabinet (for Cabinet functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under the Deregulation and Contracting Out Act 1994 Section 70, or under contracting arrangements where the contractor acts as the Council’s agent under usual contracting principles, provided there is no delegation of the Council’s discretionary decision making [see Part 4F ‘Financial Regulations’ and Part 4G ‘Contract Standing Orders’].

#### 10.06 **Access to Information**

(a) The Access to Information rules in Part 4 of this Constitution apply

#### 10.07 ~~10.04~~ **Delegation to and from other local authorities**

(a) The Council may delegate functions to another local authority or, in certain circumstances, the ~~executive~~Cabinet of another local authority and also accept such a delegation from another local authority

#### ~~10.05 — Contracting out~~

~~The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.~~

## **SCHEDULE 1: DESCRIPTION OF ~~PILOT EXECUTIVE~~CABINET ARRANGEMENTS**

The following parts of this Constitution constitute the Pilot ~~Executive~~Cabinet arrangements:

1. Article 6 – ~~Executive~~Cabinet Committee and the ~~Executive~~Cabinet Procedure Rules
2. Article 7 - (~~Overview and Scrutiny~~ ~~Committee~~Committees and the Overview and Scrutiny Rules)
3. Article 8 - Regulatory Committees, Area Forums and the Committee Procedure Rules
4. Article 10 - Joint Arrangements in so far as any Joint Committee is determining local functions
5. Article 12 - Decision Making and Access to Information Procedure Rules

## ~~TERMS OF REFERENCE OF THE EXECUTIVE COMMITTEE~~

### TERMS OF REFERENCE OF THE CABINET

#### 1. Role

The ~~Executive~~Cabinet will carry out all of the Local Authority's functions which are not matters referred to Full Council or the responsibility of any other Committee of the Local Authority, save where that Committee has referred the matter to the ~~Executive~~Cabinet. The ~~Executive~~Cabinet can make recommendations to Council and other Committees in respect of matters that are referred to Full Council for decision.

#### 2. Form and Composition

The ~~Executive~~Cabinet will consist of the Leader together with ~~seven~~five other Councillors.

##### Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:-

- a) He/she resigns from the office; or
- b) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
- c) He/she is no longer a Councillor; or
- d) The date of next Annual Council Meeting at the end of the Municipal Year save that the Council may by resolution remove the Leader from office at an earlier date.

#### 3. Other ~~Executive~~Cabinet Members

Other ~~Executive~~Cabinet Members shall hold office until:-

- a) They resign from office; or
- b) They are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) They are removed from office either individually or collectively by resolution of the Council
- d) ~~e~~-They are no longer Councillors; or
- e) ~~d~~-The date of the next Annual Council Meeting at the end of the Municipal Year

#### 4. Proceedings of the ~~Executive~~Cabinet

Proceedings of the ~~Executive~~Cabinet shall take place in accordance with the ~~Executive~~Cabinet Procedure Rules set out in Part 4 of this Constitution.

As set out in ~~Part 4 of this Constitution.~~Article 4.



## TERMS OF REFERENCE OF THE STANDARDS COMMITTEE

### Roles and Functions

The Standards Committee will have the following roles and functions:

- ~~To promote~~(a) Promoting and ~~maintain~~maintaining high standards of conduct by Councillors ~~and co,~~ Co-opted Members.
- ~~To assist~~(b) Assisting Councillors ~~and co,~~ Co-opted Members to observe the Members' Code of Conduct.
- ~~To advise~~(c) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- ~~To advise the Council generally on matters relating to the ethical conduct of the Council and its Members.~~
- ~~To monitor~~(d) Monitoring the operation of the Members' Code of Conduct.
- ~~To advise, train~~(e) Advising training or ~~arrange~~arranging to train Councillors ~~and,~~ co-opted Members on ~~ethical~~ matters ~~including~~relating to the Members' Code of Conduct.
- ~~To grant~~(f) Granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct.
- ~~To consider all reports on Members' conduct whether from a Case Tribunal, an Adjudication Panel, or~~(g) Dealing with any reports from the case tribunal or interim case tribunal and any report from the Monitoring Officer ~~(including those on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer)~~
- (h) Monitor the Constitution and make ~~appropriate~~ recommendations to ~~Full~~ Council: in respect of any proposed amendments.
- ~~To exercise 1 to 8 above in relation to the Whitworth Town Council within the Rossendale Borough Council and the Members of Whitworth Town Council.~~

### **TERMS OF REFERENCE OF THE AUDIT COMMITTEE**

The Audit Committee will:

- ~~Produce and implement a draft Code of Corporate Governance (which will be used as a framework to ensure that internal controls are robust).~~

- (j) Consider and approve the Statement of Accounts.
- ~~Consider and respond to the Annual Audit letter~~
- ~~Consider and respond to individual audit projects and reports from the external and internal auditors.~~
- ~~Approve, consider and monitor the implementation of the Internal Audit Plan~~
- ~~Review the Constitution~~
- (j) Monitor the whistle blowing policy.
- (k) Monitor the Council's Corporate Governance arrangements.
- (l) To appoint a sub committee to hear and determine the outcome of local determinations and investigations
- (m) Other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act as set out in Section 9.

To exercise functions (a) to (g) in relation to Whitworth Town Council and the Members of Whitworth Town Council.

**TERMS OF REFERENCE OF THE OVERVIEW AND SCRUTINY  
COMMITTEE COMMITTEES**

The Council will appoint two overview and scrutiny committees to discharge the functions in relation to the matters described below.

<u>Committee</u>	<u>Scope</u>
<u>Audit and Performance Management Overview and Scrutiny Committee</u>	<ul style="list-style-type: none"> <li>• <u>Review Programme</u></li> <li>• <u>Produce for the Council a draft Code of Corporate Governance (which will be used as a framework to ensure that internal controls are robust).</u></li> <li>• <u>Consider and respond to the Annual Audit letter</u></li> <li>• <u>Consider and respond to individual audit projects and reports from the external and internal auditors.</u></li> <li>• <u>Approve, consider and monitor the implementation of the Internal Audit Plan</u></li> <li>• <u>Monitor internal and external audit</u></li> <li>• <u>Monitor complaints handling</u></li> <li>• <u>Monitor Ombudsman investigations</u></li> <li>• <u>Assist the Cabinet with Best Value Reviews</u></li> <li>• <u>Scrutinising decisions referred to it under the “Call in Procedure”</u></li> </ul>
<u>Policy Development Overview and Scrutiny Committee</u>	<ul style="list-style-type: none"> <li>• <u>Developing and reviewing such policy matters as the Committee itself feels are appropriate, in accordance with a Schedule of work which it should set at the beginning of each financial year end will help the Council achieve its Corporate priorities</u></li> <li>• <u>Developing and reviewing policy matters referred to it by the Cabinet Committee</u></li> <li>• <u>Dealing with other matters of local concern, eg. Services provided by the NHS or Lancashire County Council</u></li> <li>• <u>Liaising with other organisations and partners (such as eg. Rossendale Transport, Rossendale Groundwork)</u></li> </ul>

**5. General Role**

Within their terms of reference, overview and scrutiny committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
- (ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) in accordance with the Procedure Rules for call-in the reconsideration of decisions made but not yet implemented by the Cabinet or decision made;

- (v) assist the Cabinet with Best Value Reviews.

## 6. Specific Functions

### 7.1 Policy Development and Review.

The Policy Development Overview and Scrutiny Committee ~~shall monitor performance management to supplement its responsibilities for Best Value.~~ may:

#### **Functions**

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Cabinet and/or committees and chief officers about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## 7. Scrutiny

~~•~~ The Audit and Performance Management Overview and Scrutiny Committees may:

- ~~• Best Performance Plan and Performance Indicators~~
- ~~• Best Value and Best Value Reviews~~
- ~~• Developing and reviewing such policy matters as the Committee itself feels are appropriate, in accordance with a Schedule of work which it should set at the beginning of each financial year end will help the Council achieve its Corporate priorities~~
- ~~• Scrutinising the decisions referred to it under the "Call in" procedure set out in the Procedure Rules within this Constitution~~
- ~~• Developing and reviewing policy matters referred to it by the Executive Committee~~
- ~~• Dealing with other matters of local concern, eg. Services provided by the NHS or Lancashire County Council~~
- ~~• Liaising with other organisations and partners (such as eg. Rossendale Transport, Rossendale Groundwork)~~
  - (i) review and scrutinise the decisions made by and performance of the Cabinet and committees and Council officers both in relation to individual decisions and over time;

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Cabinet and/or committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committees and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).
- (vii) Assist the Cabinet with Best Value Reviews under Section 3 Local Government Act 1992;
- (viii) Following the decision, the decision-maker 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. (see Part 4E 'The Access to Information Procedure Rules' - Rule 17.4).

# OFFICER DELEGATION SCHEME

## *PART 1* *GUIDANCE FOR OFFICERS*

### 1.0 Introduction

- 1.1 Following the Audit Commission's report on Corporate Governance, the Council has committed itself to radically change the way it operates. It has drawn up an Action Plan which it intends to implement to improve the level and quality of services to local people.
- 1.2 A new Scheme of Delegation has been agreed which will give greater empowerment to officers. This means that the Council ~~has~~ and the Cabinet have delegated the day to day management of services to officers unless otherwise stated.
- 1.3 Directors, Heads of Service and Service Managers shall be empowered to authorise officers in their Departments to exercise on their behalf the powers delegated under this scheme. In accordance with Section 100 G (2) of the Local Government Act 1972 a list of authorised officers will be held by the Monitoring Officer and will be available for public inspection during normal office hours. Any decisions taken under this Authority shall remain the responsibility of the relevant Directors and Heads of Service and must be taken in the name of that officer.
- 1.4 Decisions taken must clearly identify the officer responsible for taking the decision.
- 1.5 These Guidance Notes set out the framework to decision making and establish a system to document decisions taken under the new Scheme.
- 1.6 These Guidance Notes are designed to assist officers avoid the pitfalls in the decision making process. They are not a substitute for legal and other specialist advice which should always be sought in the case of doubt.

### 2.0 Background

- 2.1 Section 101 of the Local Government Act 1972 ~~sets~~ and section 15 of the Local Government Act 2000 set out the framework of delegation. ~~It provides~~ They provide that a Council and an Cabinet can arrange for the discharge of ~~its~~ functions through a committee, sub-committee or officer of the authority, or any other local authorities. Committees can delegate to Sub-Committees or to officers, and Sub-Committees can delegate to officers, unless expressly prohibited.

Section 32 of the Local Government Act 2000 enables the Secretary of State through Regulations to provide for the discharge of functions by:-

- (a) Committees
- (b) Sub-Committees
- (c) an individual Member
- (d) any Officers of the Authority

2.2 Subject only to the very limited exceptions in Section 101 of the 1972 Act (e.g., setting the council tax, and considering certain reports from designated officers), there are few limits on the extent of the delegation to officers which local authorities are permitted to make.

### 3.0 Decision Making – The Process

3.1 Before taking any decision, an Officer must satisfy him/herself of the following matters when relevant:

- (i) the facts upon which the decision must be based
- (ii) any legislative requirements, including the need to secure Best Value
- (iii) the strategies and policies of the Council including any plans, objectives relating to their service or the Council.
- (iv) any relevant national or regional guidance
- (v) the available options
- (vi) the financial, staffing and legal implications, following consultations with the Head of ~~Finance~~[Financial Services](#), the Head of Legal and Democratic Services and the Head of Human Resources, as appropriate.
- (vii) the views/advice of any appropriate statutory officer
- (viii) any consultations undertaken, the views of any consultees and any other representations received
- (ix) any implications for any other areas of the Council's activities including the views of any Director whose services may be affected and whether any consultation has taken place.

## **PART 3**

### **DELEGATIONS TO SPECIFIC OFFICERS**

#### **1.0 General Exceptions**

1.1 The following delegations to specific officers provide for the discharge of any functions of the Council with the exception of:-

- (i) those functions reserved to the Council;
- (ii) those functions reserved to Officers by legislation;
- (iii) those matters which Directors and Heads of Service consider that the delegated authority should not be exercised and that they should be referred to the appropriate Committee or Sub-Committee for consideration.

#### **2.0 Chief Executive**

2.1 The Chief Executive shall be authorised to discharge any ~~council~~-function not otherwise delegated to Directors and Heads of Service or which cannot be undertaken by the Cabinet

2.2 The Chief Executive shall be authorised to act as the Council's proper officer for the purpose of any function not otherwise delegated under these arrangements.

2.3 The Chief Executive is also authorised to act in place of a Director or Head of Service in cases of absence or unavailability unless statutory provisions prevent this.

2.4 The Chief Executive is also authorised to discharge the functions of Head of Paid Service

2.5 The Chief Executive shall be authorised to prepare the Emergency Plan

2.6 The Chief Executive in consultation with the Leader and Deputy Leader of the Council and the Leader of the opposition shall be authorised to agree any amendments or changes to the appointment of Members to Committees, Sub Committees or Outside Bodies.



18. **The Legal Services Manager** is responsible for the day to day management of the Council's functions in relation to Legal Services.

18.1 The Legal Services Manager is the Council's Deputy Monitoring Officer in the absence of the Council's Monitoring Officer.

19. **Head of ~~Finance~~Financial Services**

19.1 The Head of ~~Finance~~Financial Services is authorised to discharge the functions of the Chief Financial Officer (Sections 114, 115 and 151 of the Local Government Act 1972)

19.2 The Head of ~~Finance~~Financial Services is responsible for the control of the Council's functions in relation to

- (a) financial services
- (b) e government and information services
- (c) in consultation with the appropriate Directors and Heads Of Service authority to determine requests for grants, financial assistance including hardship and discretionary charitable relief and support up to £5000
- (d) the requirements of the Data Protection Act 1998
- (e) the treasury management function (borrowing and investments)
- (f) the client officer for computer contract
- (g) accountancy
- (h) the Council's insurance arrangements and risk management
- (i) the writing off of debts up to £2000
- (j) pensions
- (k) creditor payments
- (l) collection of sundry debtors
- (m) banking arrangements

(n) [setting the Council Tax base](#)

# **EXECUTIVE Cabinet PROCEDURE RULES**

## **1. Discharge of Executive Cabinet Functions**

The arrangements for the discharge of Executive Cabinet Functions are set out in Part 3 of this Constitution. The Executive Cabinet may provide for Executive Cabinet Functions to be discharged by:

1. The Executive Cabinet as a whole.
2. An Officer.
3. Another Local Authority or joint arrangements.

## **2. Frequency of Meetings**

The Executive Cabinet will meet at least 8 times a year at times to be agreed by the Leader. The Executive Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

## **3. Meetings of the Executive Cabinet**

Any part of an executive Cabinet meeting where a key decision is to be taken must be open to the public unless confidential or exempt information is to be discussed.

## **4. Quorum**

The quorum for a meeting of the Executive Cabinet shall be 3 Members of the Executive Cabinet.

## **5. How Decisions are taken by the Executive Cabinet**

- a) Decisions will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution unless the urgency procedure applies.

## **6. How are Executive Cabinet Meetings Conducted?**

If the Leader is present he/she will preside. In his/her absence the Deputy Leader will preside and if he/she is absent as well, the person appointed to do so by those present shall preside.

## **7. Substitutes**

There will be no substitutes on the Executive Cabinet.

## **8. Attendance at Meetings**

Any part of an Executive Cabinet Meeting where a key decision is to be taken must be open to the public unless confidential or exempt information is to be discussed.

## 9. Order of Business

At each meeting of the [Executive Cabinet](#) the following business will be conducted:-

1. Apologies and Declarations of Interest.
2. Consideration of the Minutes of the last meeting.
3. Matters referred to the [Executive Cabinet](#) (whether by Overview and Scrutiny [Committee Committees](#) or by the Council).
4. Consideration of reports from Overview and Scrutiny Committees.
5. Matters set out in the Agenda for the meeting.

## 10. Consultation

All reports to the [Executive Cabinet](#) of proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

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

## 11. Agenda Formation

1. Subject to 2-5 below the Leader will decide upon the Agenda for the meetings for the [Executive Cabinet](#). He/she may put on the Agenda of any [Executive Cabinet](#) meeting any matter which he/she wishes. A Proper Officer will comply with the Leader's requests in this respect.
2. Any Member of the [Executive Cabinet](#) may require the Proper Officer to make sure that an item is placed on the Agenda of the next available meeting of the [Executive Cabinet](#) for consideration. If he/she receives such a request the Proper Officer will comply.
3. The Proper Officer will make sure the item is placed on the Agenda of the next available meeting of the [Executive Cabinet](#) where a relevant Overview and Scrutiny [Committee Committees](#) or a Full Council have resolved that an item be considered by the [Executive Cabinet](#). However, there may only be up to 4 such items on any 1 Agenda. Once this number has been reached any further items will be deferred to the next meeting of the [Executive Cabinet](#).
4. Any Councillor may ask the Leader to put an item on the Agenda of an [Executive Cabinet](#) Meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the [Executive Cabinet](#). The notice of the meeting will ~~of the name of the~~ Councillor who asked for the item to be considered. This Councillor will be required to attend the meeting and if this Councillor does not attend the meeting it will be at the discretion of the [Executive Cabinet](#) as to whether or not to consider the matter. However, there may only be up to 2 such items per [Executive Cabinet](#) meeting and once this

number has been reached any further items will be deferred to the next meeting of the Executive Cabinet. If the Leader does not agree with the request for the item to be included on the Agenda of an Executive Cabinet Meeting, he/she will write to the Member concerned giving a reason for the refusal.

5. The Monitoring Officer and/or The Chief Financial Officer may include an item for consideration on an Agenda of an Executive Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any 2 of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the Agenda of an Executive Cabinet Meeting if there is no meeting of the Executive Cabinet soon enough to deal with the issue in question, then the persons entitled to include an item on the Agenda may also require that a meeting be convened at the matter will be considered.

## 12. Urgency Procedure

Urgent Executive Cabinet decisions which cannot be delayed until the next meeting of the ~~Executive or Executive Committee (as the case may be)~~ Cabinet may be taken by the relevant Chief Officer after consultation with the following:-

- a) Leader  
Deputy Leader  
Relevant Portfolio Holder (if any) plus one of the following:-  
Chief Executive or  
Deputy Chief Executive in the absence of the Chief Executive or if the Chief Executive is a decision taker or the Monitoring Officer in the absence of the Chief Executive and Deputy Chief Executive or if 1 is absent and the other is a decision taker.
- b) In the absence of the Leader, Deputy Leader or Portfolio Holder (if any) the consent of another Executive Cabinet Member will be required.
- c) The urgent decision, the reason for it and the reason for the use of the urgency procedure must be reported to the next meeting of the Executive Cabinet.

### **13. Application of Council Procedure Rules**

The following Council Procedure Rules apply to the meetings of the ~~Executive~~[Cabinet](#):-

1. Duration of meeting.
2. Notice of and summons to meetings
3. Members conduct.
4. Public Question Time.
5. Disturbance by the public.
6. Voting
7. Previous decisions and motions
8. Procedure for amendments
9. Minutes
10. Record of attendance

## BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### 1. THE FRAMEWORK FOR CABINET DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4 ('The Full Council'). Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### 2. PROCESS FOR DEVELOPING THE FRAMEWORK AND MAKING DECISIONS

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

(a) The Cabinet will publicise by including in the Forward Plan and publicise by such other methods as it considers appropriate a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of Overview and Scrutiny Committees will also be notified. The consultation period shall in each instance be not less than six weeks.

(b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation.

If a relevant Overview and Scrutiny Committees wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programmes, it is open to the Overview and Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period.

The Cabinet will take any response from an Overview and Scrutiny Committees into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.

(c) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

(d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. Before reaching a decision having significant financial implications the Council shall consider a report from the Chief Finance Officer.

(e) If it accepts the recommendation 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 will be made on the basis of a simple majority of votes cast at the meeting.

- (f) The decision will be publicised in such manner as the Council determines and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective 10 working days from the date of the Council's decision, unless the Leader informs the Chief Executive in writing within five working days that he or she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Chief Executive will call a Council meeting within a further 10 working days. The Council will be required to re-consider its decision. 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.
- (i) The decision shall then be made public and shall be implemented immediately;
- (j) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### 3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, and any officers discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet and any officers discharging Cabinet functions want to make such a decision, they shall take advice from the Chief Executive after having consulted the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case
- the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### 4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) The Cabinet, or Chief Executive may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the chairman of a relevant Overview and Scrutiny Committees\* agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the relevant Overview and Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. \*In the absence of the chairman of a relevant Overview and Scrutiny Committees the consent of the Chairman of the Council and in the absence of both the Vice-Chairman of the Council will be sufficient. (see Part 4E 'The Access to Information Procedure Rules' - Rule 16).

- (b) Following the decision, the decision-maker 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. (see Part 4E 'The Access to Information Procedure Rules' - Rule 17.4).

#### 5. VIREMENT

Steps taken by the Cabinet or Officers, discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where each individual virement does not exceed that specified in the Council's Financial Regulations set out in the Financial Procedure Rules Beyond that limit, approval to any virement across budget heads shall require the approval of the Full Council.

#### 6. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, or officers, statutory area committees or joint arrangements discharging Cabinet functions 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 of a service or part of 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.

## 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- (a) Where an Overview and Scrutiny Committees is of the opinion that an Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer and shall follow the procedure set out in the Overview and Scrutiny Procedure Rules.
- (b) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committees may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council will meet within twenty-one days of the request by the Overview and Scrutiny Committees. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (i) endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## 9.4 Meaning of Exempt Information

Exempt information means information falling within the following 15 categories (subject to any conditions):

CATEGORY	CONDITION
1. Information relating to a particular employee, former employee or applicant to become an employee of,, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a Magistrates' Court Committee or Probation Committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
<u>3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority</u>	<u>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie. it must relate to and be recognisable as referring to a particular individual in the roles indicated.</u>
<del>3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority</del>  4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority.	<del>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie. it must relate to and be recognisable as referring to a particular individual in the roles indicated.</del>  Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie. It must relate to and be recognisable as referring to a particular individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie. it must relate to and be recognisable as referring to a particular individual in the roles indicated.

## 10. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items which the meeting may decide should not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed. If, at the meeting it is resolved that the matter should be dealt with in public, the relevant reports should be made available to the public.

## 11. **URGENT BUSINESS**

In accordance with Section 100B(4)(6) of the Local Government Act 1972 The Mayor or Committee Chair may allow urgent items of business to be considered on the grounds of urgency. If an item is allowed the Chair must give reasons for the special circumstances which require an urgent decision.

## 12. **APPLICATION OF RULES TO THE CABINET**

Rules 13 – 21 apply only to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.3 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.3 of this Constitution. This requirement does not include meetings, whose sole purpose is for Officers to brief Members.

## 13. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least five clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notices of meetings).

## 14. THE FORWARD PLAN

### 14.1 Period of Forward Plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### 14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Cabinet has reason to believe will be subject of a key decision to be taken by the Cabinet, officers, or under joint arrangements in the course of the discharge of an Cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision-maker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered.

The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## 15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates; and
- (b) the Chief Executive has informed the chairman of a relevant Overview and Scrutiny Committees, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least three clear days have elapsed since the Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of a relevant Overview and Scrutiny Committees that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant Overview and Scrutiny Committees, or if the chairman of each relevant Overview and Scrutiny Committees is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman of the Council will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committees can require a report**

If an Overview and Scrutiny Committees thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committees chairman, or the Chairman/Vice Chairman of the Council under Rule 16;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by (the chairman or any seven members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committees.

### **17.2 Cabinet's Report to Council**

Following receipt of a requisition under Rule 17.2, 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 seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons or that opinion.

### 17.3 Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit reports to each ordinary meeting of the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) since the last occasion when a report was made. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

### 18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### 19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will hold meetings relating to matters which are not key decisions in public except where the public is excluded by Rule 10.

### 20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

#### 20.1 Rights to copies

(b) Subject to Rule 20.2 below, an Overview and Scrutiny Committees (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relevant to its area of work relating to any business which will be or was transacted at a meeting of the Cabinet or its committees;

#### 21.2 Limit on Rights

An Overview and Scrutiny Committees will not be entitled to:

- a) any document that is in draft form;
- b) 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 intend to scrutinise;  
or
- c) the advice of a political adviser.

## 22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 22.1 Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies:

(a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, and 14 of the categories of exempt information;

(b) it contains the advice of a political adviser.

### 22.2 Material relating to key decisions

All Members of the Council will be entitled for their work as a councillor to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph (a) or (b) below applies:

(a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, and 14 of the categories of exempt information;

(b) it contains the advice of a political adviser.

### 22.3 Nature of rights

These rights of a Member are additional to any other right he or she may have.



# OVERVIEW AND SCRUTINY PROCEDURE RULES

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## Introduction

The Council will have an Overview and Scrutiny [CommitteeCommittees](#). Its functions are set out elsewhere in the Constitution.

On or after adoption of this Constitution, the Overview and Scrutiny [CommitteeCommittees](#) may, after consulting appropriate interested parties, appoint and discontinue Sub-Committees.

The Council will establish and maintain a “Scrutiny Pack” which will contain details of additional procedures to be followed in carrying out the functions of the Committee.

### 1. Who may sit on Overview and Scrutiny Committees and Review Teams?

In order to ensure openness, transparency and accountability of decision making, the Council will exclude the Leader and Deputy Leader of the Council and Members of the [ExecutiveCabinet](#) from membership of the Overview and Scrutiny [CommitteeCommittees](#). However, such a Member may attend the Overview and Scrutiny [CommitteeCommittees](#) to give evidence, if so requested by the Overview and Scrutiny [CommitteeCommittees](#)”.

A Member of the Overview and Scrutiny [CommitteeCommittees](#) may not take part in the discussion or voting on the scrutiny of a decision in which he/she was involved as a substitute Member at the meeting at which the decision was made, or by virtue of his/her membership of the Committee making that decision (whether or not the Member was in attendance at the particular meeting when the decision was made).

Review Teams may also be used to support the work of the Overview and Scrutiny [CommitteeCommittees](#). Each Group will normally consist of between 3 and 5 members. Review Teams will be selected from all members of the Council except those Members who are excluded from membership of the Overview and Scrutiny [CommitteeCommittees](#), such Members will similarly be excluded from membership of Review Teams.

### 2. Co-optees

The Overview and Scrutiny [CommitteeCommittees](#) or Sub-Committee shall be entitled to recommend to Council the appointment of two people as non-voting co-optees.

### 3. Work Programme

The Overview and Scrutiny [CommitteeCommittees](#) will be responsible for setting its own work programme.

#### 4. Agenda Items

- (a) Any Member of the Overview and Scrutiny ~~Committee~~ Committees shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- (b) Any Members of the Council who are not Members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the relevant Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration by that Committee.

#### 5. Policy Development and Overview

- (a) The Overview and Scrutiny Committees may make proposals to the Policy Committees for developments in so far as they relate to matters within their terms of reference.
- (b) The Overview and Scrutiny ~~Committee~~ Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so. (Subject to their own budget as agreed by Full Council)

#### 6. Reports from Overview and Scrutiny ~~Committee~~ Committees

- (a) Once the Overview and Scrutiny ~~Committee~~ Committees has completed its deliberations on any matter it will prepare a formal report and submit it to the relevant Policy or Regulatory Committee or to the Council as appropriate.
- (b) The Council or the Policy Committee or Regulatory Committee shall consider the report of the Overview and Scrutiny ~~Committee~~ Committees within one Committee cycle of receiving it. Within two months of their first consideration of a report from the Overview and Scrutiny ~~Committee~~ Committees, the Council, Policy Committee or Regulatory Committee will report back to the Overview and Scrutiny ~~Committee~~ Committees with their findings. The report will provide a reasoned argument for their findings, particularly where those differ from the recommendations of the Overview and Scrutiny ~~Committee~~ Committees. Their report will also include, where appropriate, an action plan and timetable to facilitate future scrutiny.

## 7. Members and Officers giving account

(a) The Overview and Scrutiny ~~Committee~~Committees may scrutinise and review decisions (other than quasi judicial decisions) made or actions taken in connection with the discharge of any of the Council's functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any Member of the Policy or Regulatory Committees, Head of Paid Service and/or any senior officer to attend before them to explain in relation to matters within their remit:

(i) any particular decisions or series of decisions;

(ii) the extent to which the actions taken implement Council policy;

And it is the duty of those persons to attend if so required. (Note: Save in exceptional circumstances, and in agreement with the Head of Paid Service no officer below Chief Officer or a service head or other senior officer reporting directly to a Chief Officer shall be required to appear before an Overview or Scrutiny Committee).

(b) Where any Member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny ~~Committee~~Committees shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.

## 8. Attendance by others

The Overview and Scrutiny ~~Committee~~Committees may invite people other than those Members and Officers referred to above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

## 9. Call-in

1. All decisions made by Committee should be sent to Members within four working days of the Committee having met.
2. Such Notices will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 3 working days after the publication of the decision.
3. The rules relating to the timetable for operating the Call-In Procedure shall be adhered to, whatever method of delivery of the Minutes to Members is used.
4. If a decision is called in the Proper Officer shall then notify Members of the decision making Committee. He/she shall call a meeting of the Overview and Scrutiny ~~Committee~~Committees on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 working days of the decision to call in.
5. If a decision is called in, the implementation of that decision is suspended until the Overview and Scrutiny ~~Committee~~Committees has met.
6. If, having considered the decision, the Overview and Scrutiny ~~Committee~~Committees is still concerned about it, then it may refer it back to the decision making Committee for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred back to the decision making Committee, a meeting will be convened to reconsider the decision within a further ten working days.
7. If following an objection to the decision:
  - i) the Overview and Scrutiny ~~Committee~~Committees does not meet in the period set out above or the expiry of ten working day period; or
  - ii) the Overview and Scrutiny ~~Committee~~Committees does meet but does not refer the matter back to the decision making Committee, the decision shall take effect on the date of the meeting.
8. If the matter is referred to Full Council, and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making Committee, together with the Council's views on the decision. A meeting of the decision making Committee will be convened to reconsider within ten working days of the Council's request.
9. Any three Members of the Council may request in writing for a decision to be called in.
10. The following matters are exempt from call-in.

- i) Where decisions involve expenditure or reductions in service only those over a value of £25,000 per annum may be called-in.
- ii) The procedure will not apply to decisions on individual planning or licensing applications.
- iii) Call-Ins should only apply to decisions which are considered to be contrary to policy or not in accordance with the budget.
- iv) Decisions which are deemed to be urgent by a Policy Committee and a resolution passed to that effect.
- v) Decisions determined by the various Appeals Panels which deal with Personnel matters (e.g. grievances, disciplinary matters, regradings and other matters relating to employment terms and conditions).
- vi) Any deferred decisions.

## **10. Call in and Urgency**

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Policy Committees are urgent. A decision will be urgent if the relevant Policy Committee resolve that any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interest. The minute of any decision taken as a matter of urgency must indicate the reasons for urgency.
- (ii) The operation of the provisions relating to call-in and emergency shall be monitored annually by the Head of Paid Service or his/her nominee, and a report submitted to council with proposals for review if necessary.

## **1. RECRUITMENT AND APPOINTMENT**

### **1.1 Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or an Officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him or her.

### **1.2 Seeking support for appointment.**

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

- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

## **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

## **3. APPOINTMENT OF HEAD OF PAID SERVICE**

- 3.1 The Full Council must approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-committee of the Council before an offer of appointment is made to him/her. That Committee or Sub-committee must include at least one Member of the Cabinet.
- 3.2 An offer of employment as Head of Paid Service shall only be made where the procedure set out in Appendix 1 to the Officer Employment Procedure Rules has been completed.

## **4. APPOINTMENT TO CHIEF OFFICER POSTS**

- 4.1 The Full Council has decided to reserve to itself the approval of the appointment of the Chief Officers following the recommendation of such an appointment by a Committee or Sub-committee of the Council before an offer of appointment is made to him/her. That Committee or Sub-committee must include at least one Member of the Cabinet.
- 4.2 An offer of employment as a Chief Officer or an Officer paid on Chief Officer grades shall only be made where the procedure set out in Appendix 1 to the Officer Employment Procedure Rules has been completed.

## 5. OTHER APPOINTMENTS

### 5.1 Deputy Chief Officers and officers below.

Appointment of Deputy Chief Officers and Officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his or her nominee, and may not be made by Councillors.

### 5.2 Assistants to political groups.

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## 6. DISCIPLINARY ACTION

### 6.1 Suspension of Head of Paid Service, Chief Finance Officer, and Monitoring Officer.

The Head of Paid Service, Chief Finance Officer and Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct; any such suspension must terminate no later than the expiry of two months beginning on the day on which the suspension takes effect, unless the

designated independent person has directed that it may continue beyond that period.

### 6.2 Independent person.

No other disciplinary action may be taken in respect of the Head of Paid Service, the Chief Finance Officer or Monitoring Officer, except in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of The Local Authorities (Standing Orders) (England) Regulations 2001 SI 2001/ 3384 (investigation of alleged misconduct).

### 6.3 Councillors will not be involved in the disciplinary action against any Officer who is not a Chief Officer or paid on Chief Officer grades except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, 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.

## 7. DISMISSAL

### 7.1 Councillors will not be involved in the dismissal of any Officer who is not a Chief Officer or paid on Chief Officer grades except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, 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.



7.2 Where a Committee or Sub-Committee of the Council is discharging, on behalf of the Council, the function of or in relation to, the dismissal of the Head of Paid Service, a Chief Officer or Officer paid on Chief Officer grades, that

Committee or Sub-Committee must include at least one Member of the Cabinet.

7.3 Head of Paid Service.

Where a Committee or Sub-Committee of the Council is discharging the function in relation to the dismissal of the Head of Paid Service, the Full Council must approve any recommendation of dismissal before notice of dismissal is given.

7.4 Notice of dismissal of the Head of Paid Service, a Chief Officer or Officer paid on Chief Officer grades must not be given until the procedure set out in Appendix 2 to the Officer Employment Procedure Rules has been completed.

## **8. DEFINITIONS**

8.1 “Chief Officers” includes “statutory chief officers” and “non-statutory chief officers” as defined in Section 2 of the Local Government and Housing Act 1989 (and the plural shall include the singular)

8.2 “Officers paid on Chief Officer grades” means those officers who are not Chief Officers but employed on Chief Officer JNC Conditions of Service (and the plural shall include the singular).

## APPENDIX 1

### APPOINTMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND OFFICERS PAID ON CHIEF OFFICER GRADES

1. This procedure applies to the appointment of the Head of Paid Service, Chief Officers and officers paid on Chief Officer grades (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders)(England) Regulations 2001.
2. In this procedure, “appointor” means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the Council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until:
  - (a) The appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) The proper officer has notified every member of the Cabinet of:
    - (i) The name of the person to whom the appointor wishes to make the offer;
    - (ii) Any other particulars relevant to the appointment which the appointor has notified to the proper officer, and
    - (iii) The period within which any objection in the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
  - (c) either:
    - (i) The Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any member of the Cabinet has any objection to the making of the offer;
    - (ii) The proper officer has notified the appointor that no objection was received by him/her within that period from the Leader, or
    - (iii) The appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Human Resources.

## APPENDIX 2

### DISMISSAL OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND OFFICERS PAID ON CHIEF OFFICER GRADES

1. This procedure applies to the dismissal of the Head of Paid Service, Chief Officers and officers paid on Chief Officer grades (“relevant officers”) and has been incorporated into these Rules, as required by the Local Authorities (Standing Orders)(England) Regulations 2001.
2. In this procedure, “dismissal” means, in relation to the dismissal of a relevant officer, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until:
  - (a) The dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) The proper officer has notified every member of the Cabinet of:
    - (i) The name of the person who the dismissor wishes to dismiss;
    - (ii) Any other particulars relevant to the dismissal which the dismissor has notified to the proper officer, and
    - (iii) The period within which any objection to the dismissal is to be made by the Cabinet leader on behalf of the Cabinet to the proper officer, and
  - (c) either:
    - (i) The Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the Leader, or
    - (iii) The dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be the Head of Human Resources.