

## Appendix 5 Other Procedure Rules

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## **Part A - Access to Information Procedure Rules**

### **Section 1 – General Provisions**

#### **Status**

- 1 These Rules are for the most part not rules laid down by the Council itself, but a summary of the effect of the legal provisions about access to information and a description of how the provisions operate in practice within the Council and its organisation. In the event of any conflict between these Rules and the legal provisions, the legal provisions will prevail. They are to be found in the Local Government Act 1972 (as amended); the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000; and the Openness of Local Government Bodies Regulations 2014.

#### **Scope**

- 2 These rules apply to all meetings of the Council, Overview and Scrutiny Committees, the Governance Committee and regulatory and other Committees and meetings of the Cabinet (together called meetings). Where additional rules that apply only to Cabinet are included, these are clearly marked as such.

#### **Additional rights to information**

- 3 These Rules do not affect or detract from any other, more specific rights to information contained elsewhere in this Constitution or the law.

### **Section 2 - General Access Rules**

#### **Rights to attend meetings**

- 4 Members of the public may attend meetings, subject to the exceptions set out in these Rules.

#### **Notices of meetings**

- 5 Unless the Meeting is called at shorter notice, the Council will give at least five clear working days notice of any meeting by posting details of the meeting on its website and at the Town Hall, Chorley (“the designated office”).

#### **Access to agenda and reports before meetings**

- 6 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except that:
  - a) where the meeting is convened at shorter notice, copies of the agenda and report shall be published on the Council’s website and open to inspection from the time the meeting is convened; and
  - b) where an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public and publish it on the Council’s website as soon as the report is completed and sent to Councillors) will be published on the Council’s website and open to inspection for from the time the item was added to the agenda.

## **Items of Business**

- 7.1 An item of business may not be considered at a meeting unless either:
- a) a copy of the agenda including the item (or a copy of the item) is published on the Council's website and open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
  - b) by reason of special circumstances, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 7.2 "Special circumstances" justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item or report could not have been available for five clear days before the meeting.
- 7.3 Where the item of business relates to a Key Decision, other rules may also apply – set out in Section 3 – the Executive.

## **Supply of copies**

- 8 On payment of a charge for postage and any other reasonable costs, the Council will supply to any person, copies of any agenda and reports that are open to public inspection.

## **Access to minutes etc after meetings**

- 9 The Council will make available for public inspection, copies of the following documents for six years after a meeting:
- (a) the minutes of the meeting or records of decisions taken, together with reasons, for Cabinet decisions, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

## **Background papers**

### **10.1 List of background papers**

The proper officer will set out in every report that is open to public inspection a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 12).

## 10.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

As far as Cabinet decisions are concerned, the Council will also publish on its website any background papers that are included in the list.

## Summary of public rights (including rights to record and film meetings, use of mobile phones and social media)

11.1 A copy of the Access to Information Procedure Rules (as set out in this Appendix to the Constitution), which sets out the public's rights to attend meetings and to inspect and copy documents, shall be kept at and available to the public at the Council's offices for inspection. A member of the public shall be entitled to a copy of these Rules on request.

Public rights to speak at Council meetings are set out in Appendix 3, Part E of the Constitution.

## 11.2 Protocol on the use of mobile phones, social media, filming and recording at meetings

This protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and filming and recording at formal meetings of Chorley Council, Cabinet and Committees.

Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

## 11.3 Filming and Recording of Meetings

The filming, videoing, photographing or recording Council meetings or other meetings which are open to the public is allowed, providing it does not disturb the conduct of the meeting.

The Chair of the meeting will have the power to rescind this permission if it is disruptive or distracting to the good order and conduct of the meeting, for example through flash photography or intrusive camera equipment.

All those visually recording a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.

If a meeting passes a motion to exclude the press and public, or if the Council consider that sensitive issues are to be debated, then, in conjunction with this, all rights to record the meeting are removed.

The Chair of the meeting will have the power to disallow filming by any person who has previously caused a disturbance by filming, or has subsequently made this film

available (on the internet, for example) in a way that has misrepresented the meeting, the Council or individual Councillors.

#### **11.4 Filming Members of the Public**

In the case of members of the public speaking at meetings (at Development Control Committee, for example) the Chair will ask each individual to give their express permission to being filmed and they will not be filmed if they actively object.

#### **11.5 Use of Mobile Devices**

To minimise disruption to others attending the meeting, all attendees must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.

The use of social media in formal meetings is permitted for members of the public, press and Councillors who are not members of the meeting, so long as this does not cause any disruption or disturbance. The Chair's decision on this point is final. The full attention of Councillors who are members of the meeting (full Council, Cabinet, Committee, etc.) is required at all times and these Councillors must not be distracted by using social media or any mobile devices.

No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.

The Members' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

### **Exclusion of access by the public to meetings**

#### **12.1 Confidential information – requirement to exclude public**

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

#### **12.2 Exempt information – discretion to exclude public**

Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. In relation to Executive Cabinet, any resolution to exclude the public due to disclosure of exempt information must identify the proceedings, or the part of the proceedings to which it applies, and state, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

#### **12.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed because of a Court Order.

## 12.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

N.B. The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended) and the Relevant Authorities (Standards Committees) Regulations 2001.

Category	Explanation
1. Information relating to any individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
2. Information that is likely to reveal the identity of an individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>a) Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests;</p> <p>b) Information is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>• Companies Act 1985;</li> <li>• Friendly Societies Acts 1974 and 1992;</li> <li>• Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• Building Societies Act 1986;</li> <li>• Charities Act 1993.</li> </ul> <p>c) The rights of access by Members are contained in Section 1007 of the 1972 Act.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6. Information which reveals that the authority proposes a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
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Information falling within any of the paragraphs above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## 12.5 Disclosure by Members

Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.

## 12.6 Interpretation

- (1) In Parts 1 and 2 and this Part of the Schedule:
- “employee” means a person employed under contract of service;
  - “financial or business affairs” includes contemplated, as well as past or current, activities;
  - “labour relations matter” means:
    - (a) any of the matters specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (10) (matters which may be the subject of a trade dispute, within the meaning of the Act); or
    - (b) any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority; “office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority; “registered”, in relation to information required to be registered under the Building Societies Act 1986 (11), means recorded in the **public** file of any building society (within the meaning of that Act).
- (2) Any reference in Parts 1 and 2 and this Part of this Schedule to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or document the question whether information is exempt or not falls to be determined and includes a reference:
- (a) in the case of a principal Council, to any committee or sub-committee of the Council; and
  - (b) in the case of a committee, to:
    - (i) any constituent principal Council;

- (ii) any other principal Council by which appointments are made to the committee or whose functions the committee discharges; and
  - (iii) any other committee or sub-committee of a principal Council falling within sub-paragraph (i) or (ii) above; and
- (c) in the case of sub-committee, to:
- (i) the committee, or any of the committees, of which it is a sub-committee
  - (ii) any principal Council which falls within Paragraph (b) above in relation to that committee.

### **Exclusion of access by the public to reports**

13. If the proper officer thinks fit, the Council may exclude access by the public to a report or a part of a report which in his or her opinion relates to an item during which, in accordance with Rule 12, the meeting is likely not to be open to the public. Every copy of such report, or part of report, as the case may be, must be marked, “not for publication” and there must be stated on every copy of the whole or the part of the report:
- (a) that it contains confidential information; or
  - (b) by reference to the descriptions in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision making body discharging the executive function are likely to exclude the public during the item to which the report relates.

## **Section 3 – The Executive**

### **Reporting of proceedings at Cabinet meetings**

14. While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

### **Procedure prior to a Private Meeting of Cabinet**

- 15.1 Subject to a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:
- (a) a notice has been published in the Notice of Executive Decisions at least 28 clear days before the meeting in question and made available on the council’s website and at Town Hall, Chorley. This notice is to include a statement of the reasons why the meeting, or part of the meeting, is held in private;
  - (b) a further notice will be published on the Council’s website and at Town Hall, Chorley at least five clear working days before the meeting; such notice to include:
    - i. a statement of the reasons for the meeting to be held in private;
    - ii. details of any representations received by the Cabinet about why the meeting should be open to the public; and
    - iii. a statement of its response to any such representations.
- 15.2 Where the date by which a Cabinet meeting must be held makes compliance with Rule 15.1 impracticable, the meeting, or part of the meeting, may only be held in private where Cabinet has obtained agreement from:

- a) the Chair of the Overview and Scrutiny Committee; or in his/absence
- b) the Vice-Chair of the Overview and Scrutiny Committee

### **Meaning of “key decision”**

A key decision means :

- 16.1 Any executive decision (as opposed to a regulatory decision) which is likely to result in the Council incurring significant expenditure or the making of savings where there is:
- (a) A change in service provision that impacts upon the service revenue budget by £100,000 or more, or
  - (b) A contract worth £100,000 or more, or
  - (c) A new or unprogrammed capital scheme of £100,000 or more, or
- 16.2 Any executive decision which will have a significant impact in environmental, physical, social or economic terms on communities living or working in two or more electoral wards-this includes any plans or strategies which are not included within the meaning of the Council's Policy Framework set out in Article 4 of the Council's Constitution to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.

### **Publicity in connection with key decisions**

17. Subject to Rule 19 (general exception) and Rule 20 (special urgency), a key decision may not be taken unless:
- (a) a notice (called here the Notice of Executive Decisions) has been published in connection with the matter in question;
  - (b) the notice referred to at sub paragraph (a) has been available for public inspection at least 28 days at *Town Hall, Chorley* and on the Council's website;
  - (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 5 (notice of meetings).

### **Notice of Executive Decisions**

#### **18.1 Contents of Notice of Executive Decisions**

The Notice of Executive Decisions will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers, in the course of the discharge of an Executive function. It will provide the following details:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

- (g) that other documents relevant to those matters may be submitted to the decision maker;
- (h) the procedure for requesting details of those documents (if any) as they become available.

The Notice of Executive Decisions must be published on the Council's website and available at the Town Hall, Chorley at least 28 clear days before a key decision is made.

- 18.2 Where in relation to any matter, the public may be excluded under Rule 12 from the meeting at which the matter is to be discussed, or the documents relating to the decision need not by virtue of Rule 12 to be disclosed to the public, the Notice of Executive Decisions must contain particulars of the matter but may not contain any confidential, exempt information.

### **Key decisions – general exception**

- 19.1 Subject to Rule 20 (special urgency), where the publication of the intention to make a key decision under Rule 16 is impracticable, that decision may only be made:
- (a) where the proper officer has informed the Chair of the Overview and Scrutiny Committee; or in his/absence the Vice-Chair of the Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;
  - (b) where the proper officer has made available at *Town Hall, Chorley* for inspection by the public and published on its website a copy of the notice given pursuant to sub-paragraph (a); and
  - (c) after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- 19.2 Where Rule 19 applies to any matter, Rule 18 need not be complied with in relation to that matter.
- 19.3 As soon as reasonably practicable after the proper officer has complied with Rule 19.1, he or she must make available at *Town Hall, Chorley* a notice setting out the reasons why compliance with Rule 18 is impracticable and publish that notice on the Council's website.

### **Key decisions – special urgency**

- 20.1 Where the date by which a key decision must be made makes compliance with Rule 19 impracticable, the decision may only be made where the decision maker has obtained agreement from the Chair of the Overview and Scrutiny Committee; or in his/absence the Vice-Chair of the Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred.
- 20.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 19.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at Town Hall, Chorley a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

### **Key decisions – contraventions**

- 21.1 Where an executive decision has been made and:
- (a) was not treated as being a key decision; and

(b) the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, that Overview and Scrutiny Committee may require the executive which is responsible for the decision to submit a report to Council within such reasonable period as the committee may specify.

21.2 The power to require a report rests with the Committee, but is also delegated to the proper officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

### **Cabinet's report to Council**

22.1 The Cabinet will prepare a report under Rule 20.1 for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 5 working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

22.2 The report must include details of:

- (a) the decision and reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

### **Reports on special urgency decisions**

23 The Leader of the Council will submit to the Council reports containing details of each executive decision taken during the period since the last report was submitted to the council where the making of the decision was agreed as urgent in accordance with Rule 20 (special urgency).

### **Recording of executive decisions made at meetings**

24 As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the person presiding, must ensure that a written statement is produced and published on the council's website for every executive decision made which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decisions; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

### **Executive meetings relating to matters that are not key decisions**

25. The Executive will decide whether meetings relating to matters that are not key decisions will be held in public or private.

### **Recording of executive decisions made by Individual Members of the Cabinet**

- 26.1 As soon as reasonably practicable after an individual Member has made an executive decision, that member must produce or instruct the proper officer to produce and publish on the Council's website a written statement of that executive decision which includes :
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the member when making the decision;
  - (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.
- 26.2 The provisions of Rules 9 and 10 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet.

### **Recording of executive decisions made by Officers**

27. As soon as reasonably practicable after an Officer has made a decision which is an executive decision, the officer must produce and publish on the Council's website a written statement which must include:
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the officer when making the decision;
  - (d) a record of any conflict of interest declared by an executive member who is consulted by the Officer which relates to the decision; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

### **Rights of access to documents for members of the Overview and Scrutiny Committee**

#### **Rights to copies**

- 28 Subject to Rules 20 and 29, the Overview and Scrutiny Committee will be entitled to a copy on request to copies of any document which is in the possession or under the control of the Cabinet or its Committees and which contains material relating to
- (a) any business transacted at meeting of the Cabinet or its Committees; or
  - (b) any decision that has been made taken by an individual member of the Cabinet in accordance with executive arrangements; or
  - (c) any decision that has been made by an officer of the Council in accordance with executive arrangements.

#### **Limit on rights**

- 29.1 No member of the Overview and Scrutiny Committee is entitled to a copy:
- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:

- i) an action or decision that that member is reviewing or scrutinising
- ii) any review contained in any programme of work of such a committee or sub-committee of such a committee.

29.2 Where the Cabinet determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for it must provide the Overview and Scrutiny Committee with a written statement setting out the reasons for that decision.

### **Additional rights**

30. The rights described in Rule 28 shall apply also in relation to non Executive functions dealt with by the Council and any regulatory or other Committees and Sub-Committees.

### **Agenda and Reports**

31. All members of the Council entitled, on request, to copies of all agenda and reports when published whether relating to Executive or non Executive functions.

### **Nature of rights**

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

## **Part B - Budget and Policy Framework Procedure Rules**

### **1. The Framework for Executive decisions**

The Council is responsible for the adoption or approval of Budgets and Policy Frameworks, as provided for in Article 4 of the Constitution. The Executive is responsible for implementing the Policy Frameworks and incurring expenditure in accordance with the Budgets. The Executive also has overall responsibility for preparing draft Budgets and Policy Frameworks for submission to the Council for it to consider.

### **2. The Budget and Policy Framework process**

The process by which the Budgets and Policy Frameworks of the Council are to be developed and approved or adopted shall be as follows:

- 2.1 Any member of the Council may at any time put forward proposals to the Executive with regard to existing or future Budgets or Policy Frameworks or the development of policy for inclusion in a Policy Framework.
- 2.2 The Executive shall, as and when appropriate, draw up initial proposals in relation to any plan, strategy or budget that is intended to form part of the Council's Budget or Policy Framework. In drawing up such proposals, the Executive shall take into consideration any relevant proposals put forward by members of the Council under Rule 2.1 above.
- 2.3 When initial proposals have been drawn up by the Executive under Rule 2.2, the Chief Executive shall:
  - (a) submit details of those initial proposals to the next meeting of the Overview and Scrutiny Committee; or
  - (b) if there is no ordinary meeting of that Committee or those Committees due to be held within the following 2 weeks, send the details to the Chair of that Committee or Committees

The Chief Executive shall at the same time notify the Committee or Committees or the Chair of the date when the Executive will consider the initial proposals further. That date must be at least 2 weeks after the date on which the details are sent to the Overview and Scrutiny Committee Chair.

- 2.4 Where details of initial proposals of the Executive in relation to any plan, strategy or budget that is intended to form part of the Council's Budget or Policy Framework have been submitted to the Overview and Scrutiny Committee under Rule 2.3, the Committee may, not later than the day before the Executive will consider those initial proposals further, formulate views or comments on them for consideration by the Executive.
- 2.5 If the Chair of the Overview and Scrutiny Committee has received details of initial proposals of the Executive under Rule 2.3, he may require the Chief Executive to convene a meeting of the Committee and submit details of the proposals to the Committee in sufficient time for the Committee to be able to formulate views and comments for consideration by the Executive under Rule 2.4.

- 2.6 After taking into consideration any views or comments formulated by the Overview and Scrutiny Committee under Rule 2.4, the Executive will finalise its proposals and report them to the Council for its consideration. The report of the Executive to the Council shall contain a summary of any views or comments received from the Overview and Scrutiny Committee and any response the Executive may wish to make to them.
- 2.7 The Council will then consider the proposals of the Executive and may approve or adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- 2.8 But if the Council has any objection to the proposals of the Executive, it must, before amending, approving or adopting the proposals (with or without modification), take the action required by the Council Procedure Rules in that regard.

### **3. Decisions outside the Budget or Policy Framework**

- 3.1 Subject to the provisions of Rule 5 (Virement), the Executive, a Committee of the Executive, an individual member of the Executive or an officer discharging executive functions may only take decisions that are in accordance with the Budget and the Policy Framework. If any of those bodies or persons wishes to make a decision that is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget approved by the Council, that decision may, subject to Rule 4, only be taken by the Council.
- 3.2 Any question as to whether a decision or proposed decision is in accordance with the Budget is to be determined in the first instance by the Chief Executive as the Council's Chief Finance Officer.
- 3.3 Any question as to whether a decision or proposed decision is in accordance with the Policy Framework is to be determined in the first instance by the Head of Governance as the Council's Monitoring Officer.
- 3.4 Where there may be doubt as to whether a proposed decision is in accordance with the Budget or the Policy Framework it is the responsibility of the person or body who proposes to make the decision to take advice from the Chief Executive or the Head of Governance as appropriate.

### **4. Urgent decisions outside Budgets or Policy Framework**

- 4.1 The Executive, a Committee of the Executive, an individual member of the Executive or an officer discharging executive functions may take a decision that is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget if:
- (a) the decision is a matter of urgency;
  - (b) the Chair of the Overview and Scrutiny Committee agrees that is the case; and
  - (c) it is not practical to convene a quorate meeting of the Council;
- 4.2 When a decision is made pursuant to Rule 4.1, the record of the decision shall state the reason why the decision was considered to be a matter of urgency, the fact that the Chair of the Overview and Scrutiny Committee agreed the urgency and the reason why it was considered not practical to convene a quorate meeting of full Council.

- 4.3 In the absence of the Chair of the Overview and Scrutiny Committee, the agreement required under Rule 4.1 may instead be given by the Mayor or, in the absence of both, by the Deputy Mayor.
- 4.4 When a decision has been made pursuant to Rule 4.1, the body or person who made it shall submit a report to the next Ordinary Meeting of the Council meeting explaining the decision, the reasons for it and why it was treated as a matter of urgency.
- 4.5 Any requirement to reallocate financial resources by virement should follow the financial regulations and the financial procedure rules.

## **5. In-year changes to Policy Framework**

- 5.1 The responsibility for agreeing the Budget and the Policy Framework lies with the Council. Every decision by the Executive, a Committee of the Executive, an individual member of the Executive or an officer discharging executive functions must be in accordance with them except and no departures from any policy or strategy which forms part of the Policy Framework may be made by any of those bodies or individuals unless the Council gives its approval, which may be:
- (a) given generally in advance respect of particular policies or strategies or particular circumstances; or
  - (b) given in respect of specific proposals or decisions brought before the Council for separate consideration.

## **6. Review of whether decisions are outside Budgets or Policy Frameworks**

- 6.1 If the Overview and Scrutiny Committee is of the opinion that an executive decision or proposed executive decision is or would be not in accordance with the Policy Framework or contrary to or not wholly in accordance with the Budget, it may call for a report from Council's Monitoring Officer or the Council's Chief Finance Officer.
- 6.2 The officer shall then prepare the report, which shall in all cases be copied immediately to all members of the Executive and submitted to a meeting of the Overview and Scrutiny Committee.
- 6.3 If the report advises that the relevant decision or proposed decision is or would be not in accordance with the Policy Framework or contrary to or not wholly in accordance with the Budget, the Executive shall meet as soon as practicable and determine what action should be taken by the Executive in respect of the report.
- 6.4 If the relevant decision is one already made and implemented, the action to be taken by the Executive shall include the submission of a report to the Council on the matter.
- 6.5 If the relevant decision is one that has been made but not yet implemented or is a decision yet to be made, the Executive shall not be under any obligation to report to the Council on the matter, but shall:
- (a) inform the Overview and Scrutiny Committee of the action it proposes to take or has taken in respect of the officer's report; and
  - (b) not implement or take the decision unless and until the approval of the Council has been given to it.

- 6.6 If it thinks fit, having considered the action the Executive has taken or proposes to take, the Overview and Scrutiny Committee may itself report to the Council on the matter.
- 6.7 If it is decided that a report on the matter be submitted to the Council, whether by the Executive or the Overview and Scrutiny Committee, the Council shall meet to consider the matter within 21 days if the Executive so requests.
- 6.8 At the meeting, the Council shall consider the report of the officer and such reports as the Executive and/or the Overview and Scrutiny Committee may submit. The Council may then either:
- (a) endorse a decision or proposal of the Executive or any other body or person on its behalf as falling within the existing Budget or Policy Framework;
  - (b) amend the Budget or Policy Framework so as to encompass the decision or proposal of the body or person and agree to the decision with immediate effect; or
  - (c) if 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 Policy Framework or Budget to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the officer.

**Part C - Executive Procedure Rules**

**Executive Procedure Rules are a matter for the Executive Any Executive Procedure Rules the Executive adopts will be inserted in this Appendix.**

## **Part D - Overview and Scrutiny Procedure Rules**

### **1. The Overview and Scrutiny Committee**

- 1.1 The Council has established the Overview and Scrutiny Committee in accordance with Article 6, with functions as stated. The Committee may appoint such Task and Finish Groups as it thinks fit to undertake reviews.
- 1.2 In carrying out its functions, the Overview and Scrutiny Committee shall:
- (a) approve an annual work programme, for the Overview and Scrutiny Function;
  - (b) ensure that the reviews it undertakes and the referrals and reports to and from the Executive are managed efficiently and do not exceed the capacity of the Council's organisation or create difficulty for the efficient management of executive or Council business.
- 1.3 The Council's overview and scrutiny functions shall additionally be carried out in accordance with the framework and guidance set out in this Constitution and procedures formally adopted by the Committee.

### **2. Membership of the Committee**

Membership is open to all members of the Council except members of the Executive. But no member may take part in the scrutiny of a decision in which he or she has been directly involved.

The members of the Committee are appointed annually by the Council. The Committee may appoint one or more additional ad hoc task and finish groups to undertake specific assignments. Any member of the Council other than an Executive Member is eligible to be a member of a task and finish group. The Chairs and members of such groups are appointed by the Committee with the Chairs being drawn from among members of the Committee.

The Committee may also appoint up to two non-voting lay members onto its own Committee or any task and finish group. The lay members are appointed for a specific project or for a whole year.

### **3. Meetings**

The number of ordinary meetings to be held each year by the Committee shall, unless the Council otherwise determines, be included in a programme of meetings approved by the Council at each Annual Meeting of the Council. Additional meetings may also be held from time to time, as and when appropriate. Additional meetings of the Committee shall be held as the Committee itself may decide during the year, at the request of its Chair or pursuant to a requisition signed by any five members of the Committee and delivered to the Chief Executive. The task and finish groups shall determine the dates and times of their own meetings.

### **4. Work Programme and agenda items**

The Committee shall determine its annual work programme and items for the agendas of individual meetings in accordance with the Overview and Scrutiny Information and Guidance adopted by the Council. Every member of the Overview and Scrutiny Committee shall be entitled to give to the Chief Executive notice that he or she wishes

an item relevant to the functions of the Committee to be included on the agenda for its next ordinary meeting. On receipt of such a request the Chief Executive shall either ensure that the item is included on the agenda for that meeting or, with the approval of or at the direction of the Chair, give the member a written explanation of why the item has not been included.

## **5. Policy review and development**

5.1 The Budget and Policy Framework Procedure Rules give the Overview and Scrutiny Committee a specific role in relation to the approval or adoption of the Budget and Policy Framework. In addition to that role, Overview and Scrutiny Committee may:

- (a) make recommendations to the Executive and/or the Council in respect of Budgets or Policy Frameworks at a time when the Executive is not considering proposals for submission to the Council; and
- (b) contribute to the development of policy with regard to matters not forming part of Budget or Policy Framework and make proposals or recommendations to the Executive for policy developments relating to matters within the remit of the Executive.

5.2 For the purpose of discharging their functions, the Overview and Scrutiny Committee may:

- (a) hold enquiries;
- (b) investigate and research the available options for future direction in policy development;
- (c) appoint advisers and assessors to assist it;
- (d) hold site visits;
- (e) conduct public surveys;
- (f) hold public meetings;
- (g) commission research;
- (h) require members of the Executive and officers of the Council to attend before them to answer questions;
- (i) invite any person to attend one of its meetings to address the members on or discuss with them any matter under consideration; and
- (j) do any other thing they may consider reasonably necessary for or conducive to that purpose.

## **6. Reports of the Committee**

6.1 Once it has formed recommendations on proposals for policy development, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Executive or the Council as appropriate.

6.2 If the members of the Committee are not unanimous in agreeing a report, one minority report may be prepared and submitted for consideration by the Council or the Executive along with the majority report.

6.3 Every report submitted by the Committee to the Council or the Executive shall be considered by it within three months.

## 7. Rights of Members to documents

In addition to their other rights as members of the Council, members of the Overview and Scrutiny Committee have the further rights to documents and notice of meetings conferred on them by the Access to Information Procedure Rules in Appendix 5 to this Constitution.

## 8. Review of Executive decisions

### 8.1 When:

- (a) a decision has been made but not implemented by the Executive Cabinet, or an individual member of the Executive Cabinet; or
- (b) a decision has been made but not implemented by an officer with delegated authority from the Executive Cabinet
  - i) Members of the Council may within 5 working days of the publication of the decision and in accordance with the call-in procedure set out in Annexe Form 1 of the Overview and Scrutiny Information and Guidance document request the Overview and Scrutiny Committee to recommend that the decision be reconsidered by the person or body who made it; or
  - ii) determine to arrange for the decision to be reviewed or scrutinised by the Council.

If no ordinary or additional meeting of the Committee is held within five days of the decision, the power conferred on the Committee under this Rule may be exercised by means of a written resolution signed by the Chair of the Committee and three of its other members delivered to the Chief Executive within the requisite five working days. The resolution may be contained in a single document, signed by all the members concerned, or in several documents in identical form, each signed by one or more members.

8.2 Subject to Rule 8.4, if the Committee recommends that the decision be reconsidered by the person or body who made it, that person or body shall do so as soon as practicable and, pending that reconsideration, no steps shall be taken to implement the decision.

8.3 Any person or body who reconsiders a decision may rescind, amend or re-affirm it, as they think fit, and whatever decision is taken on the reconsideration shall itself not be subject to the power of review conferred by Rule 8.1.

8.4 Rule 8.2 shall not apply if within two working days of being notified of the decision of the Overview and Scrutiny Committee the Chief Executive certifies in writing that the reconsideration of the decision by the person or body who made it would in his or her opinion seriously prejudice the interests of the Council, the public or some other person or body.

8.5 If as provided in Rule 8.1 the Committee decides to arrange for the decision to be reviewed or scrutinised by the Council, the Council shall determine at its next meeting whether it will review or scrutinise the decision and, if so, when and how. But there shall be no obligation to postpone any implementation of the decision.

- 8.6 If the Council does decide to review or scrutinise the decision, the Council will only have power to express views or make recommendations to the body or person who made it unless it was not in accordance with the Policy Framework or was contrary to or not wholly consistent with the Budget.
- 8.7 In addition to the power conferred by Rule 8.1, the Committee may itself, at any time within 2 months of a decision within the purview of that Rule being made, review and scrutinise that decision and formulate views or recommendations for consideration by the Executive and/or the body or person who made it. It shall then be the duty of the Executive or the body or person to consider those views or recommendations within three months.
- 8.8 For the purpose of assisting Members and informing members of the public about Overview and Scrutiny, the Overview and Scrutiny Committee may prepare and publish and subsequently amend or replace an administrative guidance document on the procedures whereby it will exercise its powers under Article 6 of the Constitution those procedures are to operate within the framework of these Overview and Scrutiny Procedure Rules and may include procedures whereby members of the public may request the committee to recommend that an executive decision be reconsidered by the body or person who made it.

## **9. Procedure at meetings**

- 9.1 The Overview and Scrutiny Committee shall normally consider the following business:
- (a) Apologies for absence
  - (b) Minutes of the last meeting;
  - (c) Declarations of interest;
  - (d) Minutes of the last Executive Cabinet meeting;
  - (e) consideration of any matter referred to it for a decision or report or in relation to review or scrutiny of a decision;
  - (f) responses of the Executive to reports of the Committee; and
  - (g) other business as set out on the agenda for the meeting.
- 9.2 When, in connection with its review or scrutiny of any decision or matter or any enquiry or investigation, the Committee requires or asks persons to attend a meeting in order to assist the Committee, express views, give evidence or answer questions, the meeting shall be conducted by the Committee in accordance with the following principles:
- (a) the proceedings shall be conducted fairly;
  - (b) all members of the Committee shall have the opportunity to ask questions of attendees and to contribute and speak; and
  - (c) those required or requested to attend shall be treated with respect and courtesy.
- 9.3 Following every review or investigation that it has undertaken, the Committee shall prepare a report, for submission to the Executive and/or the Council as appropriate.

## **Part E – Openness and Publication of Officer Decisions**

1. The Openness of Local Government Bodies Regulations 2014 require local authorities to produce a written record of certain decisions taken by officers acting under powers delegated to them by the Council or a local government body, its committees or sub committees or a joint committee. The written record must be available for inspection and on the Council's website as soon as reasonably practicable after the making of the decision. The written record must be retained for six years and background papers retained for four years.
2. It should include officer decisions relating to all issues specifically delegated or in the case of those generally delegated in the following areas:
  - (a) those granting a permission or licence;
  - (b) those affecting the rights of an individual;
  - (c) the award of a contract or the incurring of expenditure which in either case materially affects the Council's position. This has been treated for the purposes of these regulations as Key Decision level (see Appendix 3, Part A, para 16)
3. These are not Executive decisions as covered by the Executive Member decisions procedure but officers decisions, including background papers, must be published as soon as reasonably practical and must contain:
  - (a) the date of the decision
  - (b) a record of the decision and the reasons
  - (c) any alternative options considered and rejected
4. These do not include purely administrative or operational decisions covering day to day working.
5. Where the Council already publishes this information on its website then the information will not be republished.